

2019 EDITION
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MUNICIPAL ELECTION MANUAL

Prepared by



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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 (A.R.S.) 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. You may access these documents through Adobe Reader (which is free to the user) and Internet access.

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 election calendars and information on complying with the Voting Rights Act of 1965.

This text does not represent a substitution for the counsel, guidance or opinion of the city or town attorney. Consult your city or town attorney 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 city charters. 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 and Title 19, which relates to initiative, referendum and recall elections. Both the Constitution and the revised statutes have been interpreted by the Arizona Supreme Court, and these cases will be cited throughout 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.¹ However, a 1997 Court of Appeals decision upheld a law passed during the 1996 legislative session enacting four consolidated election dates. The Court determined that consolidated dates were a matter of statewide concern and applied to municipal governments.² In 2012, the State Supreme Court reverted to the reasoning in their earlier decisions finding that the Legislature could not preempt the City of Tucson's partisan and ward-based elections as specified in their charter.³ In 2014, Division II of the Arizona Court of Appeals ruled unconstitutional the 2012 law challenged by the cities of Tucson and Phoenix mandating that all regular city/town candidate 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.⁴ In the absence of constitutional or lawful restrictions, a charter city has full power to act within the limitations imposed by the Constitution.⁵

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.

¹ [Strode v. Sullivan, 72 Ariz. 360, 236 P.2d 48 \(Ariz. 1951\).](#)

² [City of Tucson v. State, 191 Ariz. 436, 957 P.2d 341 \(Ariz. Ct. App. 1997\).](#)

³ [City of Tucson v. State, 229 Ariz. 172, 273 P.3d 624 \(Ariz. 2012\).](#)

⁴ [City of Tucson v. State of Arizona, 235 Ariz. 434, 333 P.3d 761 \(Ariz. Ct. App. 2014\).](#)

⁵ [Maxwell v. Fleming, 64 Ariz. 125, 166 P.2d 831 \(Ariz. 1946\).](#)

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. 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.

Beginning in 2018, the counties are required to calculate voter turnout in statewide elections and compare against voter turnout for charter city candidate elections that are not held in the Fall of even-numbered years. If the county finds a significant decrease in voter turnout in the charter city (as specified by the statutory formula that compares turnout to the Governor's race results from that charter city), within three years the charter city is required to move its election date to the Fall of even-numbered years.⁶ Special elections and recall elections may continue to be held on any of the four consolidated election dates for all cities and towns. Charter cities that may face this scenario should seek guidance from your attorney.

All Other Elections

All other city or town elections except for any charter adoption or amendment elections must be held on the following dates:⁷

- 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.

Charter cities may hold elections on any of the consolidated election dates. 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. Cities and towns that schedule an election to approve or authorize a transaction privilege tax assessment must hold the election on the November election date in an even-numbered year.⁸

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.⁹

⁶ [A.R.S. § 16-204.01.](#)

⁷ [A.R.S. § 16-204; City of Tucson v. State 235 Ariz. 434, 435, ¶ 3, 333 P.3d 761, 762 \(App. 2014\)](#) (held that § 16-204 does not preempt city charters that require odd-numbered year election dates because “state-mandated election alignment, when it conflicts with a city’s charter, improperly intrudes on the constitutional authority of charter cities”).

⁸ [A.R.S. § 16-204 \(F\).](#)

⁹ [A.R.S. § 9-235; see also memorandum from Joni Hoffman, Gen. Couns., League of Ariz. Cities & Towns, to Ken Strobeck, Exec. Dir., League of Ariz. Cities & Towns \(Apr. 27, 2012\)](#) (explaining [A.R.S. § 9-235](#) and providing an example of application).

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.¹⁰ 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.¹¹ 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.¹²

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, enacted to address the impact of consolidated elections, cities and towns may, by ordinance, provide for the election of candidates at the primary election by a majority of votes cast. Charter cities may adopt the procedure by ordinance or maintain their current method for calculating a majority of votes cast.

The 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 calculate each district separately.

¹⁰ [A.R.S. § 9-231 \(B\)](#).

¹¹ [A.R.S. §§ 9-232.04, 9-273](#).

¹² [A.R.S. §§ 9-232.02, 9-272](#).

More Candidates Received a Majority of Votes Cast than Seats to be Filled

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.¹³ For example, if seven people are running for three council seats and four candidates receive a majority of votes cast, the three candidates with the highest number of votes are declared elected and no runoff is required.

No Candidate Receives a Majority of Votes Cast

A.R.S. § 9-821.01 (F) states that candidates who did not receive a majority of votes cast advance to the general or runoff election. In order to determine which candidates move forward, the clerk must identify the candidates who received the highest number of votes for the office and allow the number of candidates equal to twice the number of seats to be filled. If more than one candidate received an equal number of the highest votes for the office, then all candidates receiving the equal number of votes advance to the general or runoff election. If there were seven candidates for three seats and none of the candidates received a majority of votes cast, six of the candidates with the highest number of votes would proceed to the runoff.

An Insufficient Number of Candidates Receive a Majority of Votes Cast

The law also requires a runoff if an insufficient number of candidates receive a majority of votes cast. In order to determine who moves forward from the remaining candidates who did not receive a majority, the clerk must identify who received the highest number of votes and the number of candidates who advance to the runoff must be equal in number to twice the number of seats to be filled. For example if there were five candidates for three council seats but only two candidates received a majority of votes, only these two candidates would be declared elected. Since one seat remains open, two of the remaining three candidates must proceed to the runoff determined by the highest number of votes received in the primary election. If more than one candidate received an equal number of the highest votes for the office, then all candidates receiving the equal number of votes advance to the general or runoff election.

At the runoff election, the candidate who receives the highest number of votes is declared elected. If two or more candidates receive the equal number of votes that is higher than any other candidate, the candidate elected is determined by lot.

Optional Procedure

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. 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.¹⁴ 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.

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.¹⁵ 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.¹⁶ 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.

¹³ [A.R.S. § 9-821.01 \(E\).](#)

¹⁴ [A.R.S. § 9-821.01 \(G\).](#)

¹⁵ [Ariz. Const., art. II, § 13](#); *see also Kautenburger v. Jackson, 85 Ariz. 128, 333 P.2d 293 (Ariz. 1958)* (making the rotation of names provision applicable to voting machines).

¹⁶ [A.R.S. § 16-464](#)

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.¹⁷ 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.**

¹⁷ [Tellez v. Superior Ct. ex rel Pima Cty.](#), 104 Ariz. 169, 450 P.2d 106 (1969); memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to Cathy Connolly, League of Ariz. Cities & Towns (Oct. 19, 1987).

CHAPTER I – VOTERS

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 a person who is qualified to register to vote and who is properly registered to vote and is otherwise qualified.¹⁸ 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. (If this date falls on a Saturday, Sunday or other legal holiday, voter registrations that are received on the next business day immediately following the Saturday, Sunday or other legal holiday are deemed to have been timely received for purposes of voting in that election.)
4. Residency in the city or town for twenty-nine days prior to the election. (If this date falls on a Saturday, Sunday or other legal holiday, voter registrations that are received on the next business day immediately following the Saturday, Sunday or other legal holiday are deemed to have been timely received for purposes of voting in that election.)
5. Ability to write one's own name or make his mark unless prevented by physical disability.

To register, an applicant must have proof of citizenship.¹⁹ 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.

Pursuant to a consent decree, if a county receives a state registration form or a national registration form (Federal Form) without proof of citizenship, the county must check the MVD database to determine if proof of citizenship is on file. If the person's citizenship can be verified by MVD records, the person is eligible to vote a full state ballot.²⁰

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.

¹⁸ [Ariz. Const. art. VII, § 2; A.R.S. §§ 9-822, 16-101, 16-120, 16-121.](#)

¹⁹ [A.R.S. § 16-166.](#)

²⁰ [LULAC v. Reagan, No. CV17-4102-PHX DGC \(6-18-18\).](#)

- 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
- 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). (If this date falls on a Saturday, Sunday or other legal holiday, voter registrations that are received on the next business day immediately following the Saturday, Sunday or other legal holiday are deemed to have been timely received for purposes of voting in that election.) Any person residing for twenty-nine days in an area that has been annexed to the city or town at least twenty-nine 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.²¹

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.²²

Special Purpose Elections

All qualified electors of the city or town may vote in a special election, including bond elections.²³

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.²⁴
2. Having been adjudicated an "Incapacitated Person"; i.e., lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person.²⁵
3. Having been convicted of a felony or of treason, unless restored to civil rights.²⁶

²¹ [A.R.S. § 9-822](#); *see also* [A.R.S. § 16-593](#) (providing rules for determining residence).

²² [Ariz. Const., art. VII, §§ 3, 6](#).

²³ [A.R.S. §§ 9-523, 16-120](#); [City of Phoenix v. Kolodziejcki](#), 90 S. Ct. 1990, 399 U.S. 204, 26 L. Ed. 2d 523 (1970).

²⁴ [Porter v. Hall](#), 34 Ariz. 308, 271 Pac. 411 (Ariz. 1928).

²⁵ [A.R.S. § 16-101 \(A\)](#); *see also* [A.R.S. § 14-5101](#) (defining "incapacitated person").

²⁶ [Ariz. Const. art. VII, § 2](#); *see also* [A.R.S. § 16-101](#).

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.²⁷ 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.²⁸

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.²⁹ The voter registration law should be construed so as to uphold the citizen's right to vote.³⁰ 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

Prior to July 1, 1985, cities and towns were able to prepare local voter registration lists but currently all cities and towns must use county registration lists.³¹ 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.³² 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. However, a person who registers using a Federal Form without proof of citizenship being confirmed is not a "qualified elector" for state and local elections and is only eligible to vote for federal offices. "Federal only" voters cannot sign state and local candidate, or initiative, referendum and recall petitions.³³

Under 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, but can correct the residence address at the appropriate polling place and be issued a provisional ballot.³⁴ 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.³⁵

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 following forms are acceptable identification:³⁶

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.

²⁷ [A.R.S. § 16-165 \(A\) \(3\),\(4\).](#)

²⁸ [A.R.S. § 16-121 \(A\).](#)

²⁹ [Ariz. Const., art. VII, § 12.](#)

³⁰ [Abbey v. Green, 28 Ariz. 53, 72, 253 P. 150, 157 \(Ariz. 1925\).](#)

³¹ [A.R.S. §§ 9-823, 16-172.](#)

³² [A.R.S. § 16-172 \(A\).](#)

³³ [Voter Registration, Ariz. Op. Atty. Gen. No.I13-011 \(2013\).](#)

³⁴ [A.R.S. §§ 16-125, 16-135.](#)

³⁵ [A.R.S. § 16-137.](#)

³⁶ [A.R.S § 16-579\(A\).](#)

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”

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 identification is allowed to vote a provisional ballot pursuant to A.R.S. § 16-584 or a conditional provisional ballot as provided by the Secretary of State’s Election Procedures Manual.

Confidential Voter Registration Information and Misuse of Precinct Registers

The county recorder shall seal the voter registration record of registered voters who have obtained an injunction against harassment or an order of protection issued by the court. The sealed record requirement applies to any other registered voter in the household. 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. The county recorder is responsible for maintaining voter registration lists.³⁷ Public inspection of voter registration records at the county recorder’s office may be permissible although certain personal information is confidential.³⁸ 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.³⁹

³⁷ [A.R.S. § 9-823\(F\)](#).

³⁸ [A.R.S. § 16-168\(F\)](#).

³⁹ [A.R.S. §§ 16-153, 16-168](#).

Irregularities

Anyone knowingly procuring a false registration is guilty of a class 6 felony.⁴⁰ 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. 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.⁴¹ Also, it is a class 5 felony, if a voter knowingly votes in two or more jurisdictions in this state for which residency is required for lawful voting and the person is not a resident of all jurisdictions in which the person voted.⁴²

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.⁴³ Also, all electors are guaranteed secrecy in casting their ballots.⁴⁴ 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.⁴⁵ 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.⁴⁶

Voting Rights Act

The federal Voting Rights Act of 1965 (“VRA”), 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 required to seek approval, known as preclearance, until 2013 when the U.S. Supreme Court ruled that the coverage formula is unconstitutional thus removing Arizona from the preclearance requirement.⁴⁷

In 1975, the VRA was amended to require that voting materials be made available in the languages of certain minority groups in the United States. The determination is made based on the U.S. Census Bureau’s American Community Survey conducted every five years. Section 203 of the VRA requires the affected jurisdictions to provide “any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots...in the language of the applicable minority group.” The language requirement applies to “any type of election” and “should be broadly construed to apply to all stages of the electoral process, from voter registration through activities related to conducting elections...”⁴⁸ In Arizona that includes the Spanish language and depending on your area, Native American languages. All cities and towns in

⁴⁰ [A.R.S. § 16-182.](#)

⁴¹ [A.R.S. § 16-183.](#)

⁴² [A.R.S. § 16-1016 \(A\).](#)

⁴³ [Ariz. Const., art. VII, §§ 4, 5.](#)

⁴⁴ [Ariz. Const., art. VII, § 1.](#)

⁴⁵ [A.R.S. § 41-1421 \(A\).](#)

⁴⁶ [A.R.S. § 16-402 \(A\).](#)

⁴⁷ [Shelby County v. Holder, 133 S. Ct. 2612 \(2013\); see also memorandum from William Brock, Gen. Couns., League of Ariz. Cities & Towns, to Ken Strobeck, Exec. Dir., League of Ariz. Cities & Towns \(July 12, 2013\) \(explaining *Shelby County v. Holder*\).](#)

⁴⁸ [28 C.F.R. §55.15.](#)

Arizona are affected by these requirements 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.

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.⁴⁹ 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.⁵⁰

Candidates for local office must also have resided in the city or town for one year preceding the election.⁵¹ 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.⁵²

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.⁵³ 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.⁵⁴ 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.⁵⁵

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.⁵⁶ However, 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.⁵⁷

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.⁵⁸

⁴⁹ [A.R.S. § 16-311 \(B\)](#); *see also* [memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to Catherine Connolly, Asst. Dir., League of Ariz. Cities & Towns \(Oct. 19, 1993\)](#) (concluding that the Title 16 requirement that 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](#)).

⁵⁰ [A.R.S. § 38-201](#); *e.g.*, [Escamilla v. Cuello](#), 230 Ariz. 202, 282 P.3d 403 (Ariz. 2012).

⁵¹ [A.R.S. § 9-232](#); *e.g.*, [State v. Macias](#), 162 Ariz. 316, 783 P.2d 255 (Ariz. Ct. App. 1989).

⁵² [See memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to Catherine Connolly, League of Ariz. Cities & Towns \(Oct. 31, 1979\)](#).

⁵³ [A.R.S. § 9-232](#).

⁵⁴ [Ariz. Const. art. VII, § 2](#); [A.R.S. § 16-101](#).

⁵⁵ [Ariz. Const. art. V, § 5](#); [A.R.S. § 13-905](#) (providing the method of restoration to civil rights).

⁵⁶ [Home v. Rothschild](#), 227 Ariz. 119, 253 P.3d 1242 (Ariz. 2011).

⁵⁷ [A.R.S. § 38-296.01 \(A\)](#).

⁵⁸ [Ariz. Const. art. IV, pt. 2, § 5](#).

Additionally, a person is not eligible to be a candidate for nomination or election to and is not eligible to serve simultaneously 1) in more than one statewide office; 2) in more than one legislative office; or 3) in both a legislative office and statewide office.⁵⁹

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, a special regulation of the Civil Service Commission grants an exception to Federal employees living in Sierra Vista and Huachuca City, Arizona.⁶⁰ 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. 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.⁶¹ 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.⁶²

Incumbents

The Arizona Constitution (Article XXII, § 18 and A.R.S. § 38-296) 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.⁶³ 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.⁶⁴

Summation

From this discussion, it appears that officers and employees of different political jurisdictions may, under certain conditions, seek municipal office. Where the majority of voters in the municipality are Federal civilian employees, Federal employees may seek office in local elections.⁶⁵ 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

⁵⁹ [A.R.S. § 38-296.01.](#)

⁶⁰ [5 C.F.R. §§ 733.103, 733.107.](#)

⁶¹ [A.R.S. § 41-752 \(C\); State Employees and Public Office, Ariz. Op. Atty. Gen. No. 71-32-L \(1971\).](#)

⁶² [Perkins v. Manning, 59 Ariz. 60, 122 P.2d 857 \(Ariz. 1942\); cf. Davis v. Hale, 96 Ariz. 219, 393 P.2d 912 \(Ariz. 1964\)](#) (holding that doctrine of incompatibility does not apply where a city council, operating under charter, combines offices in the interest of economy).

⁶³ [Concurrent Service on a Town or City Council and a School Board, Ariz. Op. Atty. Gen. No. 72-20-L \(1972\).](#)

⁶⁴ [A.R.S. § 38-296; see also memorandum from J. Lamar Shelley, Gen. Couns. League of Ariz. Cities & Towns, to Cathy Connolly, Asst. Dir., League of Arizona Cities & Towns \(Oct. 24, 1996\)](#)(defining "salaried elective office").

⁶⁵ [5 C.F.R. § 733.107.](#)

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

A write-in candidate has not circulated candidate petitions; consequently, the write-in candidate's name does not appear on the ballot. Write-in candidates are allowed at both the primary and general election subject to the limitations listed below. If the person meets the qualifications to be a write in candidate, a voter may write the candidate's name on the ballot and the vote will be counted. 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 but must file the financial disclosure statement at the time of filing the nomination paper.⁶⁶

A person cannot be a write-in candidate at a general election:

1. if they ran in the immediately preceding primary election for that office and failed to be nominated.
2. if they file a nomination petition without enough valid signatures to be placed on the ballot for that year's primary election.
3. if they withdrew from the primary election after a challenge was filed.
4. if they were removed from or otherwise determined by court order to be ineligible for the primary election ballot.⁶⁷

There is provision in state law for late vacancy write-in candidates.⁶⁸ However, the Arizona Court of Appeals, Division I ruled that the provision did not apply to non-partisan elections.⁶⁹

The clerk may not accept the nomination paper of a write-in candidate if the person is liable for an aggregation of \$1,000 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. For all mail-ballots, there is no requirement to include notification of a write-in along with the ballot.

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

⁶⁶ [A.R.S. § 16-312 \(C\).](#)

⁶⁷ [A.R.S. § 16-312 \(F\); Kennedy v. Lodge, 230 Ariz. 548, 288 P.3d 108 \(Ariz 2012\).](#)

⁶⁸ [A.R.S. § 16-343.](#)

⁶⁹ [Katan v. City of Prescott, 233 Ariz. 179, 221 P.3d 370 \(Ariz. Ct. App. 2009\).](#)

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 for partisan elections must receive a certain number of votes to be issued a letter of nomination.⁷⁰ 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. However, the signature threshold requirement is only referenced for a “nomination” after the primary election and may not be applicable to a runoff situation under A.R.S. § 9-821.01.⁷¹ **Please consult with your attorney for additional guidance.**

NOMINATION BY PETITION

In Arizona, persons are nominated to run for office in the primary election by a petition process for nomination. The petition process allows any qualified voter the opportunity of seeking public office, and is the only mechanism for a person’s name to appear on the ballot. The nomination paper is a formal notification to the clerk that the individual intends to seek municipal office. A nomination packet includes a nomination paper that includes a candidate declaration (no longer an affidavit that requires notarization), a financial disclosure statement and a nomination petition with the requisite number of signatures. A Statement of Organization is required within ten days of a city or town candidate receiving contributions or making expenditures, in any combination, of at least \$500 so the Statement of Organization may not be filed at the time of candidate filing. The \$500 threshold only applies to city and town candidates; political action committees at all levels are subject to a \$1,100 threshold (\$1,200 on January 1, 2019.)

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.⁷² As a best practice, before accepting the required documentation, check that all forms are complete and properly signed and ensure that a candidate cannot leave the paperwork without it being reviewed.

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 the candidate’s 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.⁷³ The candidate's surname must be printed first, followed by the given name or names.
5. Date of election.
6. Statement on Campaign Finance Law: This statement declares, under penalty of perjury, that the candidate has no final, outstanding judgments of an aggregate of \$1,000 or more that arose from failure to comply with or enforcement of campaign finance law.⁷⁴

⁷⁰ [A.R.S. § 16-645.](#)

⁷¹ [Watkins v. Kingman, CV-2018-01124.](#)

⁷² [A.R.S. § 16-311.](#)

⁷³ [See memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to City Manager \(June 3, 1968\).](#)

⁷⁴ [A.R.S. § 16-311\(D\).](#)

7. Candidate Declaration: At the time of filing the nomination paper, candidates must also file a declaration with sufficient information to indicate that the person, at the time of the election, will be qualified to hold the office sought. State law does not require the declaration to be notarized.
 - a. The candidate declaration should indicate that at the time of filing the candidate is eighteen years old; a qualified and registered elector; and 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. At the time the candidate files their nomination paper, the candidate must reside in the city, town or district the person proposes to represent.⁷⁵

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.⁷⁶ Any candidate who does not file a timely nomination paper is not eligible to be placed on the ballot.

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.⁷⁷

A compilation of all state statutes relating to campaign finance is included in the [Campaign Finance – Candidate Guide](#), published by the Secretary of State, as required pursuant to A.R.S. §§ 16-926, 16-938. This Guide should be provided to all candidates by the city or town clerk as part of the candidate’s packet.

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.⁷⁸

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.⁷⁹

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.⁸⁰ (The procedure for registration of out-of-state circulators is to be specified in the Secretary of State’s Elections 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.

⁷⁵ [A.R.S. § 16-311 \(B\).](#)

⁷⁶ [A.R.S. § 16-311 \(F\).](#)

⁷⁷ [A.R.S. §§ 16-311 \(F\), 16-341 \(K\).](#)

⁷⁸ [A.R.S. § 16-321 \(B\), \(F\).](#)

⁷⁹ [A.R.S. §§ 16-314, 16-315.](#)

⁸⁰ [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.⁸¹ 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.⁸² 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.⁸³

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.⁸⁴ 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 Required⁸⁵

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. As an alternative, cities and towns with nonpartisan elections 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.⁸⁶ The percentage figures and the offices nominated are outlined for both cities and towns.⁸⁷

NOMINATION PETITIONS IN CITIES

<u>Office</u>	<u>% Signatures Required by Qualified Signers</u>
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), (B), which allows a minimum of 1,000 signatures or 5% of the vote in the city, whichever is less, but not more than 10% of the vote in the city.
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), (B), which allows a minimum of 1,000 signatures or 5% of the vote in the city, whichever is less, but not more than 10% of the vote in the city.

⁸¹ [Buckley v. Am. Const. L. Found., Inc., 119 S. Ct. 636 \(1999\).](#)

⁸² [A.R.S. § 16-321 \(D\).](#)

⁸³ [A.R.S. § 16-321 \(A\), \(B\).](#)

⁸⁴ [A.R.S. § 16-321 \(C\).](#)

⁸⁵ [A.R.S. § 16-322.](#)

⁸⁶ [A.R.S. § 16-322 \(A\) \(8\) - \(10\).](#)

⁸⁷ [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), (B), which allows a minimum of 250 signatures or 5% of the vote in the district, whichever is less, but not more than 10% of the vote in the district.

NOMINATION PETITIONS IN TOWNS

Office **% Signatures Required by Qualified Signers**

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), (B), which allows a minimum of 1,000 signatures or 5% of the vote in the town, whichever is less, but not more than 10% of the vote in the town.

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), (B), which allows a minimum of 1,000 signatures or 5% of the vote in the town, whichever is less, but not more than 10% of the vote in the town.

Clerk's Duty Relating to Nomination Forms

There is no statutory requirement for the clerk to verify if a candidate meets the qualifications. Any person may challenge the candidate in superior court during the challenge period after the filing deadline.⁸⁸ It is the duty of the courts and not the clerk to determine the legal sufficiency of nomination petitions.⁸⁹ 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 10th day, excluding Saturdays, Sundays and holidays, after the last day for filing nomination papers and petitions.⁹⁰ Any such action must be heard by the Superior Court within ten calendar days after the filing and this decision is only appealable if a notice of appeal is filed within five calendar days with the Supreme Court.⁹¹ The appeal can allege that the petitions were not completed properly.⁹² All challengers are required to specify in the action the petition number, line number and basis for dispute for each signature in question. 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.⁹³ 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.⁹⁴

⁸⁸ [A.R.S. § 16-351](#).

⁸⁹ [Sims Printing Co. v. Frohmler](#), 47 Ariz. 561, 58 P.2d 518 (1936); [Hunt v. Superior Ct. ex rel Navajo Cty.](#), 64 Ariz. 325, 170 P.2d 293 (1946); see also memorandum from David Merkel, Gen. Couns., League of Ariz. Cities & Towns, to Fredda Bisman, City Atty., City of Scottsdale (Apr. 22, 1998).

⁹⁰ [A.R.S. § 16-351\(A\)](#).

⁹¹ [Bohart v. Hanna](#), 213 Ariz. 480, 143 P3d 1021; see also [Validity of Nomination Petitions with Incorrect Primary Election date after the Enactment of SB 1430](#), Ariz. Op. Atty. Gen. No. I07-010 (2007).

⁹² [Jenkins v. Hale](#), 218 Ariz. 561, 190 P.3d 175 (2008); [Applicability of Rationale in Jenkins v. Hale to All Circulated Petitions](#), Ariz. Op. Atty. Gen. No. I09-011 (2009).

⁹³ [A.R.S. § 16-351 \(D\)](#).

⁹⁴ [A.R.S. § 16-351.01](#).

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.⁹⁵

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.⁹⁶

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.⁹⁷ 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.⁹⁸ It is good practice to require a candidate withdrawing from the election to file a written notice with the clerk indicating the withdrawal.

CAMPAIGN EXPENSES⁹⁹

Candidate Committees

State law requires city and town candidates who receive or expend, *in any combination*, \$500 or more to register as a candidate committee and account for all monies or things of value received and expended by them, their campaign committee or individuals on behalf of a person's candidacy for public office.¹⁰⁰ For example, if a candidate receives \$300 and spends \$200, the total amount is \$500 and the candidate is required to register as a committee. Any total combination of contributions or expenditures that remains below \$500 does not trigger committee registration. Political action committees and candidates in nonmunicipal races must continue to meet a \$1,100 threshold before committee registration is triggered (\$1,200 on January 1, 2019).

Additionally, there is no Threshold Exemption Statement. Therefore, you may have local candidates who will not have to register or complete any campaign finance forms or reports because they do not receive or spend, in any combination, \$500. Once a city or town candidate receives contributions or makes expenditures, in any combination, of \$500, the candidate must file a Statement of Organization with the clerk within ten days.¹⁰¹ Unlike the state, the \$500 committee threshold does not increase and will remain at \$500.

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. §§ 16-912 – 16-917 and those limits apply to each election cycle. The definition of “election cycle” was amended to mean the two-year period beginning on the first day of

⁹⁵ [A.R.S. § 16-351 \(F\)](#).

⁹⁶ [A.R.S. § 19-113](#).

⁹⁷ [Katan v. City of Prescott, 223 Ariz. 179, 221 P.3d 370 \(2009\)](#); *see also memorandum from J. LaMar Shelly, Gen. Couns., League of Ariz. Cities & Towns, to Cathy Connolly, League of Ariz. Cities & Towns (Oct. 19, 1987)*; *see also memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to Catherine Connolly, Asst. Dir., League of Ariz. Cities & Towns (May 18, 1993)*.

⁹⁸ [A.R.S. § 16-343 \(G\)](#).

⁹⁹ [A.R.S. §§ 16-901 - 16-938](#); *see also Campaign Finance, Ariz. Op. Atty. Gen. No. 113-007 (2013)*.

¹⁰⁰ [A.R.S. § 16-905 \(A\)](#) (originally set at \$1,000 but increased by \$100 on January 1, 2017 pursuant to A.R.S. § 16-931).

¹⁰¹ [A.R.S. § 16-906 \(A\)](#).

the calendar quarter after the calendar quarter in which the city's or town's second runoff or general election is scheduled and ending on the last day of the calendar quarter in which the city's or town's immediately following second, runoff or general election is scheduled, however that election is designated by the city or town. The cycle is no longer tied to the term of office.¹⁰² The practical effect of the new definition means that an elected official who has a four-year term will have two sets of contribution limits and may collect \$6,350 each cycle for a total of \$12,700 during a four-year period.¹⁰³

A candidate committee is not subject to state income tax and is not required to file a state income tax return.¹⁰⁴

The \$1,100 committee threshold (for local PACs and all other nonmunicipal candidate race) automatically increases by \$100 every odd-numbered year. **As of January 1, 2019, committee registration is required when a candidate receives or expends, in any combination, at least \$1,200.**¹⁰⁵

A candidate may only have one committee in existence for the same office during the same election cycle.¹⁰⁶ For example, a candidate may have a candidate committee open for a council seat and another committee open for statewide office because these are two separate offices. Exploratory committees have been eliminated.

Registration of Political Action Committees

Although candidates are required to register when the threshold is met, there is a two-part test to determine whether an entity is required to register as a political action committee.

An entity must register as a political action committee if both of the following apply:

1. The entity is organized for the *primary purpose* of influencing the result of an election; and
2. The entity knowingly receives contributions or makes expenditures, **in any combination, of at least \$1,100** in connection with any election during a calendar year.¹⁰⁷

Similar to nonmunicipal candidates, the \$1,100 committee threshold will automatically increase by \$100 every odd-numbered year so **as of January 1, 2019, the threshold amount for committee registration will be at least \$1,200.**¹⁰⁸

In order to determine the **primary purpose** of an entity, the clerk or city or town attorney shall make a rebuttable presumption that an entity is organized for the primary purpose of influencing the result of an election if the entity meets any of the following:

1. *Except for a religious organization, assembly or institution*, claims tax exempt status but had not filed Form 1023 or Form 1024 with the Internal Revenue Service (IRS), or the equivalent successor form designated by the IRS, before making a contribution or expenditure;
2. Made a contribution or expenditure and at that time had its tax-exempt status revoked by the IRS;
3. Made a contribution or expenditure and at that time failed to file Form 990 with the IRS or the equivalent successor form designated by the IRS, if required by law;

A political action committee is not subject to state income tax and is not required to file a state income tax return.¹⁰⁹ If a 501(a) entity in good standing with the IRS is not registered as a political action committee, and there is no rebuttable presumption that the entity is a political action committee, the clerk, attorney, or any other municipal officer is prohibited from requiring the entity to do any of the following:

1. Register or file as a political action committee;

¹⁰² [A.R.S. § 16-901\(18\)](#).

¹⁰³ [A.R.S. § 16-912](#) (contribution limits increase by \$100 on January 1, 2019 pursuant to A.R.S. § 16-931).

¹⁰⁴ [A.R.S. § 16-905 \(F\)](#).

¹⁰⁵ [A.R.S. §§ 16-905 \(G\), 16-931](#).

¹⁰⁶ [A.R.S. § 16-906 \(F\)](#).

¹⁰⁷ [A.R.S. § 16-905 \(B\)](#).

¹⁰⁸ [A.R.S. §§ 16-905 \(G\), 16-931](#).

¹⁰⁹ [A.R.S. § 16-905 \(F\)](#).

2. Report or otherwise disclose personally identifying information relating to individuals who have made contributions to that entity;
3. Disclose its Schedule B, Form 990; or
4. Submit to an audit or subpoena or produce evidence regarding a potential campaign finance violation.

Charter cities that regulate campaign finance disclosure should discuss these restrictions with your attorney.

Statement of Organization for Candidate and Political Action Committees

The Statement of Organization of a candidate committee or political action committee must include the following:

1. The name, mailing address, e-mail address, website, if any, telephone number, if any, and type of committee.
2. The name, mailing address, e-mail address, website, if any, and telephone number of any sponsoring organization.
3. The names, physical locations or street addresses, e-mail addresses, telephone numbers, occupations and employers of the chairman and treasurer of the committee. (In the case of a candidate committee, the candidate can be both chairman and treasurer).
4. In the case of a candidate's committee, the name, mailing address, e-mail address, website, if any, telephone number, and party affiliation of the candidate. Party affiliation is not required for nonpartisan elections. Also, the candidate must provide the office sought only if the candidate has a candidate committee open for more than one office.
5. The name, physical location or street address, e-mail address, telephone number, occupation, and employer of the committee's chairperson and treasurer. For a candidate committee, the candidate may serve as both the chairperson and treasurer.
6. A listing of all banks or financial institutions used by the committee. Bank account numbers should not be listed.¹¹⁰
7. A statement that the chairman and treasurer have read the Campaign Finance and Reporting Guide published by the Secretary of State and agree to comply with campaign finance laws and agree to accept all notifications and service of process via the e-mail address provided by the committee.

Upon filing a Statement of Organization, a political action committee is issued an identification number by the clerk and may perform any lawful activity, including making contributions, making expenditures or conducting issue advocacy, without establishing a separate committee for each activity or specifying each activity in its Statement of Organization.¹¹¹ Political action committees are required to file an amended Statement of Organization within ten days of a change in the information required as outlined above.¹¹²

Political Action Committee Contributions

A committee that receives individual contributions through a payroll deduction plan does not have to separately itemize each contribution received from the contributor during the reporting period. In lieu of itemization, the committee may report all of the following:

- The aggregate amount of contributions received from the contributor through the payroll deduction plan during the reporting period.
- The individual's identity.
- The amount deducted per pay period.

¹¹⁰ Committees are solely responsible for adhering to banking policies and clerks are not required to assist a committee that is establishing a bank account.

¹¹¹ [A.R.S. § 16-906 \(G\).](#)

¹¹² [A.R.S. § 16-906 \(C\).](#)

Standing Political Committee ¹¹³

A political action committee can file as a “Standing Committee” by registering with the Secretary of State under this designation if the committee is active in multiple jurisdictions. 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 committees must still file a copy of the committee’s Statement of Organization in jurisdictions where active so the local authorities know they are active in their city or town. Only the Secretary of State issues an identification number. The committee reports are available to election officers and the general public online.

Exemption for Religious Assembly or Institution¹¹⁴

A religious assembly or institution is no longer specifically exempted from registration as a political action committee or filing of reports based on whether the religious assembly or institution has spent a substantial amount of time or assets on influencing any federal, state or local legislation, referendum, initiative or constitutional amendment pursuant to the Internal Revenue Code. When determining whether a religious assembly or institution must register and report, evaluate the assembly or institution using the same test that determines whether an entity is required to register as a political action committee by determining whether the entity is organized for the primary purpose of influencing the result of an election; and knowingly receives contributions or makes expenditures, in any combination, of at least \$1,000 in connection with any election during a calendar year.¹¹⁵ When evaluating the *primary purpose*, the clerk follows the same criteria with one exception. The clerk does not consider the religious organization, assembly or institution’s lack of filing a Form 1023 or Form 1024 with the IRS as a rebuttable presumption that the organization is organized for the primary purpose of influencing an election.

Campaign Finance Reports

There are a number of reports that must be filed by political action committees with the clerk that detail contributions and expenditures.¹¹⁶ The Secretary of State’s Elections Procedures Manual must prescribe the format for all reports and statements. In summary, the requirements are:

- A. Once a candidate or entity meets the definition of a committee, within ten days, the committee must file a Statement of Organization with the clerk and is responsible for filing campaign finance reports.
- B. For a calendar quarter [with an election](#) at which any candidates, measures, questions or propositions appear on the ballot, a political action committee that has filed a Statement of Organization must file the following [campaign finance reports](#):
 1. Pre-election report must be filed no less than ten days before any election and must be complete from the first day of the applicable calendar quarter through the seventeenth day before the election.
 2. Post-election report must be filed no later than fifteen days after the applicable quarter and must be complete from the sixteenth day before the election through the last day of the applicable calendar quarter.
- C. For a calendar quarter [without an election](#), a political action committee must file a quarterly report complete through the last day of the calendar quarter filed no later than the fifteenth day after the calendar quarter.
- D. For political action committees, reports are due regardless if a political action committee receives no contributions and makes no expenditures during a period in which it is required to file a campaign finance report. Political action committees file regardless if an election occurs. This non-election year requirement does not apply to candidates. A candidate committee must file all reports during the four calendar quarters comprising the 12-month period preceding the general election for the office for which

¹¹³ [A.R.S. §§ 16-901 \(48\), 16-906 \(E\), 16-934 \(E\).](#)

¹¹⁴ [A.R.S. § 16-922.](#)

¹¹⁵ [A.R.S. § 16-905 \(B\).](#)

¹¹⁶ [A.R.S. §§ 16-926, 16-927.](#)

the candidate is seeking election, or for cities and towns, the city's or town's second, runoff or general election, however designated by the city or town. The reporting period for a candidate committee's first campaign finance report of the election cycle shall include the entire election cycle to date.¹¹⁷

- E. Candidate committee reports shall be cumulative for the election cycle to which they relate while political action committees and political party reports shall be cumulative for a 2-year election cycle ending in the year of a statewide general election. If there has been no change during the reporting period in an item listed in the immediately preceding report, only the amount need be carried forward.
- F. The filing deadline corresponds to the [Secretary's Campaign Finance – Candidate Guide](#), which allows deadlines to be moved to the next business day if the deadline is on a weekend or holiday pursuant to A.R.S. §§ 1-243(A) and 1-303.

For example, if a city or town has a candidate election scheduled in August 2020, the candidate must file quarterly reports during the 12 months preceding the November (scheduled runoff) election – three quarterly reports: Jan 15, Apr 15, Jul 15 and the pre- and post-August election reports: Aug. 17 and Oct 15 along with the pre- and post-November reports: Oct. 26, 2020 and Jan 15, 2021. If a special election is held in March 2020 for another office, the candidate running in the August 2020 election is within their one-year reporting period and is required to file the pre- and post-election report for the March special election. The candidate is responsible for filing reports for any election occurring within the 12 months preceding the candidate's election. Following the reporting period, if the candidate serves a four-year term, the next report is not due until January 16, 2024. If a special election is held between 2021 and 2024 but it is not a candidate election for that office, these specific candidates are not required to file reports.

- G. Reports in connection with special, recall or runoff elections must conform to the same filing deadlines set forth above.
- H. Reports no longer require a signature since reports may be submitted electronically. However, reports are deemed to be filed under the penalty of perjury by the committee treasurer. The candidate may file the report if the treasurer is unavailable.

The information required for each campaign finance report can be found in detail under A.R.S. § 16-926 (B). In summary, the information required includes:

1. The amount of cash on hand at the beginning of the reporting period.
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, including the source, amount and date of receipt, together with the total of all receipts in each category:
 - Contributions from individuals whose contributions exceed \$50 for that election cycle, including identification of the contributor's occupation and employer.
 - Contributions from candidate committees.
 - Contributions from political action committees.
 - Contributions from political parties.
 - Contributions from partnerships.
 - For a political action committee or political party, contributions from corporations or limited liability companies (LLC), including identification of the corporation's or LLC's file number issued by the Arizona Corporation Commission.
 - For a political action committee or political party, contributions from labor organizations, including identification of the labor organization's file number issued by the Arizona Corporation Commission.
 - For a candidate's campaign committee, the candidate's contribution of personal monies.
 - All loans, including identification of any endorser or guarantor other than a candidate's spouse, and the contribution amount endorsed or guaranteed by each.

¹¹⁷ [A.R.S. § 16-927 \(B\)](#).

- Rebates and refunds.
 - Interest on committee monies.
 - The fair market value of in-kind contributions received.
3. The aggregate amount of contributions from all individuals whose contributions do not exceed \$50 for the election cycle.
 4. For the reporting period and the election, an itemized list **in excess of \$250**, including the recipient, the recipient's address, a description of the disbursement and the amount and date of the disbursement, together with the total of all disbursements in each category:
 - Disbursements for operating expenses.
 - Contributions to candidate committees.
 - Contributions to PACs.
 - Contributions to political parties.
 - Contributions to partnerships.
 - For a political action committee or political party, contributions to corporations or LLCs, including identification of the corporation's or LLC's file number issued by the Arizona Corporation Commission.
 - For a political action committee or political party, contributions to labor organizations, including identification of the labor organization's file number issued by the Arizona Corporation Commission.
 - Repayment of loans.
 - Refunds of contributions.
 - Loans made.
 - The value of in-kind contributions provided.
 - Independent expenditures that are made to advocate the election or defeat of a candidate, including identification of the candidate, office sought by the candidate, election date, mode of advertising and distribution or publication date.
 - Expenditures to advocate the passage or defeat of a ballot measure, including identification of the ballot measure, ballot measure serial number, election date, mode of advertising and distribution or publication date.
 - Expenditures to advocate for or against the issuance of a recall election order or for the election or defeat of a candidate in a recall election, including identification of the officer to be recalled or candidate supported or opposed, mode of advertising and distribution or publication date.
 - Any other disbursements or expenditures.
 5. The total sum of all receipts and disbursements for the reporting period, including a line to aggregate any expenditures under \$250.
 6. A certification by the committee treasurer, issued under penalty of perjury, that the contents of the report are true and correct.

For reporting purposes:

- A contribution is deemed to be received either on the date the committee knowingly takes possession of the contribution or on the date of the check or credit card payment. For an in-kind contribution of services, the contribution is deemed made either on the date the services are performed or the date the committee receives the services.
- An expenditure or disbursement is deemed made either on the date the committee authorizes the monies to be spent or the date the monies are withdrawn from the committee's account. For a transaction by check, the expenditure or disbursement is deemed made on the date the committee signs the check. For a credit card transaction on paper, the expenditure or disbursement is deemed made on the date the committee signs the authorization to charge the credit card. For an electronic transaction, an expenditure or disbursement is deemed made on the date the committee electronically authorizes the charge. For an agreement to purchase goods or services, the expenditure or disbursement is deemed made either on the date the parties enter into the agreement or the date the purchase order is issued.

- A committee may record its transactions using any of the methods authorized by this subsection but for each type of contributions, expenditure or disbursement made or received, the committee shall use a consistent method of recording transactions throughout the election cycle.

Other Reporting Categories

In-kind contribution of services shall be equal to the usual and normal charges for the services on the date performed. If any receipt or disbursement is earmarked, the committee shall report the identity of the person to whom the receipt or disbursement is earmarked.

Independent Expenditure/Ballot Measure Expenditure

An independent expenditure means an expenditure by a person, other than a candidate committee, that “expressly advocates” the election or defeat of a clearly identified candidate *and* is not made in cooperation or consultation with or at the request or suggestion of the candidate or the candidate’s agent.¹¹⁸ A ballot measure expenditure means an expenditure made by a person that “expressly advocates” the support or opposition of a clearly identified ballot measure.¹¹⁹ The definition of “expressly advocates” is defined in statute.¹²⁰

An entity that makes independent expenditure or ballot measure expenditure in excess of \$1,000 during a reporting period shall file an expenditure report with the clerk for the applicable reporting period. The Secretary of State has prescribed a [Statement of Registration](#) form for these entities to use when submitting their report. This form is only for use by the Secretary’s Office to register the person into their online campaign finance system and is optional for cities and towns. Expenditure reports shall identify the candidate or ballot measure supported or opposed, office sought by the candidate, if any, election date, mode of advertising and first date of publication, display, delivery or broadcast of the advertisement. This information is reflected in Schedule B(6) in the Campaign Finance Report Forms and a person reporting independent expenditures can submit this schedule along with the cover sheet. No other reporting information is required.

There is no longer a requirement for a candidate to report \$1,000 single source contribution less than 20 days before the election.

Termination of Political Action Committees¹²¹

A political action committee may terminate after addressing any surplus or debts and obligations. Under any other conditions and for all other committees, a political action committee may terminate only when the committee treasurer files a Termination 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 (or has outstanding debts or obligations, or both, that are all more than 5 years old and have been discharged by the creditors) and that any surplus monies were disbursed and the committee has no cash on hand, and all contributions and expenditures have been reported, including any disposal of surplus monies.¹²²

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 standing committee terminates its activities in a jurisdiction but remains active in others the committee shall file a statement of that intent in each reporting jurisdiction.¹²³

The clerk may reject the Termination Statement if it appears to the clerk that the requirements have not been satisfied. For example, if a committee still has debts or obligations, the committee must remain open and reports must continue to be filed. Check with your attorney for additional guidance prior to rejecting a Termination Statement.

After a Termination Statement is filed, a committee is not required to file any subsequent campaign finance reports and shall have no further receipts and disbursements without filing a new Statement of Organization.

¹¹⁸ [A.R.S. § 16-901 \(31\).](#)

¹¹⁹ [A.R.S. § 16-901 \(4\).](#)

¹²⁰ [A.R.S. § 16-901.01.](#)

¹²¹ [A.R.S. § 16-934.](#)

¹²² [A.R.S. § 16-934 \(B\).](#)

¹²³ [A.R.S. § 16-934.](#)

A committee must dispose of surplus monies¹²⁴ as follows:

1. Return surplus monies to the contributor to the extent records are available permitting such return.
2. Contribute surplus monies pursuant to Article 1.2 of Title 16, Chapter 6, which is any contribution that is not otherwise prohibited by law.
3. Donate the surplus monies to a nonprofit organization that has tax exempt status under Section 501 (c) (3) of the United States Internal Revenue Code.
4. In the case of a statewide or legislative candidate committee, transfer surplus monies to the candidate's officeholder expense account.
5. For a candidate committee, contribute surplus monies to a candidate committee for ANOTHER candidate under the following conditions:
 - a. The candidate committee makes the contribution after the nomination paper filing deadline pursuant to A.R.S. § 16-311 (A).
 - b. The candidate associated with the committee making the contribution did not file a nomination paper to run for election in the current election cycle.
 - c. For transfer to a legislative candidate committee, the contribution cannot be made when the Legislature is in regular session.
 - d. The candidate committee makes the contribution within the individual contribution limits pursuant to A.R.S. § 16-912.
6. The use of surplus monies shall not be used for or converted to personal use.

Additional information about repayment of debts (fundraising, forgiveness) can be found in the [Secretary's Campaign Finance – Candidate Guide](#).

Campaign Contributions Limits

Campaign contributions were established by a 1986 voter initiative and have been increased throughout the years. These amounts are updated in January of every odd numbered year by the Secretary of State.¹²⁵ The [contribution limits](#) that 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.¹²⁶ When filing the Statement of Organization, each candidate or political action committee must sign and file with the clerk a statement to indicate that the candidate has read the Secretary's Campaign Finance – Candidate Guide agrees to comply with campaign finance laws and agrees to accept all notifications and service of process via the e-mail address provided by the committee.¹²⁷

An Attorney General's Opinion 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.¹²⁸ 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.

¹²⁴ [A.R.S. § 16-933](#).

¹²⁵ [A.R.S. § 16-931](#).

¹²⁶ [A.R.S. §§ 16-912, 16-913](#). [Davis v. FEC, 554 U.S. 724 \(2008\)](#).

¹²⁷ [A.R.S. §§ 16-906 \(B\) \(6\)](#).

¹²⁸ [Contribution Limits, Ariz. Op. Atty. Gen. No. I97-006 \(1997\)](#).

Session law in 2015 required a 2014 candidate committee that has debt to either 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.

In 2017, contribution limits increased and an individual, partnership or political action committee may give \$6,350 to a local candidate; however, the definition of "election cycle" was amended to mean the two-year period beginning on the first day of the calendar quarter after the calendar quarter in which the city's or town's second runoff or general election is scheduled and ending on the last day of the calendar quarter in which the city's or town's immediately following second, runoff or general election is scheduled, however that election is designated by the city or town.¹²⁹ The practical effect of the new definition means that an elected official who has a four-year term may collect \$6,350 each cycle for a total of \$12,700 during a four-year period.

Campaign contribution limits will automatically increase on January 1 of every odd-numbered year. **As of January 1, 2019, the new contribution limit will be \$6,450 for local races.**¹³⁰

A special election has its own contribution limits and a candidate is not required to use funds from their regular election committee.¹³¹ The Secretary of State provides more specific guidance on this matter in its [Campaign Finance – Candidate Guide](#).

Prohibited Candidate Contributions

A candidate committee is prohibited from making contributions to a candidate committee for another candidate (unless terminating the committee – *see* Surplus Monies). A local candidate committee is prohibited from transferring any committee monies directly to a statewide or legislative committee.¹³² Transfer can be made from a local committee to a county candidate committee but the monies cannot be transferred to a statewide or legislative candidate committee for 24 months immediately following the transfer of contributions if received from the city/town candidate committee. The Campaign Finance – Candidate Guide states that violating this "cooling off" period may trigger a complaint before either filing officer. There is no restriction on the downward transfer of monies so a candidate in a state, legislative or county committee can transfer monies to a local committee without penalty.

False Reports and Failure to File Statements; Notice by Clerk

A political action committee which fails to file any of the campaign finance reports is subject to civil penalties.¹³³

Failure to file occurs if a committee fails to timely file a complete report as prescribed in Articles 1, 1.1, 1.2, 1.3, 1.5 and 1.6 of this chapter, which includes the following:

- Amended campaign finance report when incomplete contribution information is obtained;¹³⁴
- An independent expenditure report pursuant to A.R.S. § 16-926 (G);¹³⁵
- Campaign finance reports;¹³⁶ or
- A committee termination statement.¹³⁷

The clerk must send a [written notification](#) by e-mail to the committee within five days after the filing deadline. The notice must identify the late report, describe how fines accrue and identifies methods of payment.

The committee is liable for a late penalty of \$10 for each day the filing is late during the first 15 days after the deadline and \$25 for each subsequent day that the filing is late. Penalties accrue until the late report is filed.

¹²⁹ [A.R.S. § 16-901\(18\)](#).

¹³⁰ [A.R.S. § 16-931](#).

¹³¹ [A.R.S. § 16-901\(18\)\(b\)](#).

¹³² [A.R.S. § 16-913](#).

¹³³ [A.R.S. § 16-938](#); [Amended Campaign Finance Reports, Ariz. Op. Atty. Gen. No. I99-009 \(1999\)](#).

¹³⁴ [A.R.S. § 16-907](#).

¹³⁵ [A.R.S. § 16-922](#).

¹³⁶ [A.R.S. § 16-926](#).

¹³⁷ [A.R.S. § 16-934](#).

If a committee fails to file a complete report within 30 days after the filing deadline following 5-day late notice from the clerk, the filing officer may notify the city or town attorney.

For any political action committee or political party that fails to file three consecutive complete reports, the clerk shall send by e-mail to the committee a [Notice of Temporary Suspension](#) and the following apply:

- On receipt, the committee's authority to operate in the jurisdiction is temporarily suspended;
- The notice shall state that failure to comply with all filing and payment requirements within 30 days after the date of the notice shall result in permanent suspension of the committee's authority to operate in that jurisdiction.

After sending the required delinquent notice to the political action committee or political party, the clerk may permanently suspend the committee and shall notify the committee by e-mail and is not required to provide any further notice. Permanent or temporary suspension does not eliminate a committee's continuing obligation to file reports and pay any outstanding and accruing penalties provided by law.

Enforcement Authority¹³⁸

Notwithstanding A.R.S. § 16-1021, which grants a city or town attorney the authority to enforce the provisions of Title 16 to city or town elections, on receipt of a complaint from a third party, the clerk is the sole public officer who is authorized to initiate an investigation into alleged violations of campaign finance laws, including the alleged failure to register as a committee. The clerk cannot initiate a complaint.

The clerk shall limit investigation to violations that are within the city or town. If the clerk declares a conflict of interest, the law allows the clerk to refer the investigation to any other clerk in the state who agrees to accept the referral. It is recommended that this course of action be discussed with your attorney prior to any referral.

The Secretary of State is required to establish guidelines in the Elections Procedures Manual to outline the procedures, timelines and other processes that apply to investigations by all filing officers in Arizona.

Once a complaint has been filed, the subject of the investigation should receive a reasonable opportunity to respond. If the clerk believes there is reasonable cause that the person violated campaign finance laws, the clerk must refer the matter to the city or town attorney.

Prior to finding reasonable cause, the clerk is prohibited from requiring a person to register as a committee and cannot audit or subpoena the person to compel production of evidence or the attendance of witnesses. The clerk may request the voluntary production of evidence or attendance of witnesses in making a reasonable cause determination after a complaint is filed.

Once the referral is made from the clerk to the city or town attorney, the attorney may:

1. Conduct an investigation, including using subpoena powers granted to the officer except that a person must not be compelled to file campaign finance reports unless that attorney has determined the person is a committee.
2. Serve the alleged violator with a Notice of Violation. The notice shall state with reasonable particularity:
 - a. The nature of the violation;
 - b. The fine or penalty imposed;
 - c. Required compliance within 20 days after the date of issuance of the notice.

The attorney shall impose a presumptive civil penalty equal to the value or amount of money that has been received, spent or promised in violation of the campaign finance laws. A Finding of Special Circumstance by the attorney allows a penalty of up to three times the amount of the presumptive civil penalty based on the severity, extent or willful nature of the alleged violation. If the Notice of Violation requires a person to file campaign finance reports, the reports are not required to be filed until the attorney's Notice of Violation has been upheld after any timely appeal.

¹³⁸ [A.R.S. §16-938](#).

3. Keep any nonpublic information gathered by the attorney in the course of the committee status investigation confidential until the final disposition of any appeal to the attorney. “Nonpublic” is undefined; **please consult public records law and discuss with your attorney.**

The city or town attorney has the sole and exclusive authority to initiate any applicable administrative or judicial proceedings to enforce an alleged violation of campaign finance laws that have been referred by the clerk. Discuss with your attorney how to address complaints that must be handled by another jurisdiction due to a conflict.

Beginning January 1, 2019, the appeals process is changing to allow an alleged violator to appeal a city or town enforcement action to the superior court, instead of pursuing an appeal through the state administrative hearing process.¹³⁹ If the alleged violator takes corrective action within 20 days after the date of the issuance of the Notice of Violation by the attorney, the alleged violator is not subject to any penalty.

If the alleged violator does not take corrective action within 20 days after the date of issuance of the Notice of Violation by the attorney, the attorney shall impose the penalty set forth in the Notice and shall provide formal notice that the imposition of the penalty may be appealed to superior court.

Within 30 days after receiving the Notice of Violation from the city or town attorney, the alleged violator may appeal to the superior court and shall inform the attorney of the appeal by providing a copy of the appeal notice to the city or town attorney (must be received by the enforcement officer).

Any superior court trial is de novo and the burden is on the city or town attorney to prove a violation occurred under a preponderance of evidence standard.

Campaign Advertising and Fund-Raising Disclosure Statements

A person, other than an individual, that makes an expenditure, including an independent expenditure, for an advertisement or fund-raising solicitation shall include the following disclosures in the advertisement or solicitation:

1. The words “paid for by,” followed by the name of the person making the expenditure for the advertisement or fund-raising solicitation.
2. Whether the expenditure was authorized by any candidate, followed by the identity of the authorizing candidate, if any. The statute requires an expenditure authorized by a candidate to specify the identity of the candidate, not necessarily the candidate’s committee. Candidates who do not meet the committee threshold registration requirement do not need to register as a committee to meet this disclosure requirement. A.R.S. § 19-125(A).

“Person” means an individual or a candidate, nominee, committee, corporation, limited liability company, labor organization, joint venture, partnership, trust, association, organization, joint venture, cooperative or unincorporated organization or association. **Since an individual is exempt from this requirement, consult with your attorney if you receive complaints regarding lack of disclosure to determine if it is an individual not required to disclose or a person who failed to disclose.**

A political action committee must disclose the names of the three political action committees making the largest aggregate contributions to the committee making the expenditure and exceeds \$20,000 during the election cycle, as calculated at the time the advertisement was distributed for publication, display, delivery or broadcast.¹⁴⁰

If a disclosure contains an acronym or nickname that is not commonly known, the disclosure shall spell out the acronym or provide the full name.

If the advertisement is:

1. Broadcast on radio, the disclosure shall be clearly spoken at the beginning or end of the advertisement.

¹³⁹ [A.R.S. § 16-938](#).

¹⁴⁰ [A.R.S. § 16-925 \(B\)](#).

2. Delivered by hand or mail or electronically, the disclosure shall be clearly readable.
3. Displayed on a sign or billboard, the disclosure shall be displayed in a height that is at least four percent of the vertical height of the sign or billboard.
4. Broadcast on television or in a video or film, the disclosure shall be both written and spoken at the beginning or end of the advertisement and the written disclosure statement shall be printed in letters that are displayed in a height that is at least four percent of the vertical picture height. The written and spoken disclosure is not required if the written disclosure statement is displayed for the greater of at least one-sixth of the broadcast duration or four seconds.

This disclosure requirement exempts social media messages, text messages, or messages sent by a short message service; advertisements that are placed as a paid link on a website, if the message is not more than 200 characters in length and the link directs the user to another website that complies with the disclosure requirements; advertisements that are placed as a graphic or picture link, if the required disclosure statements cannot be conveniently printed due to the size of the graphic or picture and the link directs the user to another website that complies with the disclosure requirements; bumper stickers, pins, buttons, pens, and similar small items on which the required statement cannot be conveniently printed; a solicitation of contributions by a separate segregated fund; a communication by a tax-exempt organization solely from its members; and a published book or a documentary film or video.

An entity that makes independent expenditures or ballot measure expenditures in excess of \$1,000 during a reporting period shall file an expenditure report with the clerk for the applicable reporting period. Expenditure reports shall identify the candidate or ballot measure supported or opposed, office sought by the candidate, if any, election date, mode of advertising and first date of publication, display, delivery or broadcast of the advertisement.

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.¹⁴¹ A committee shall preserve the following records for two years following the end of the election cycle (reminder: an election cycle is two years):

1. All contributions made or received by the committee.
2. The identification of any contributor that contributes in the aggregate at least \$50 dollars to the committee during the election cycle, the date and amount of each contribution and the date of deposit into the committee's account.
3. Cumulative totals contributed by each contributor during the election cycle.
4. The name and address of every person that receives a contribution, expenditure or disbursement from the committee, including the date and amount, and for any expenditure or disbursement, the purpose of the expenditure or disbursement.¹⁴²

Private Corporations and Labor Organizations

Corporations, limited liability companies and labor organizations shall not make contributions to a candidate committee but may make unlimited contributions to persons other than candidate committees and may make independent expenditures in candidate elections.¹⁴³

A fund that is established by a corporation, limited liability company, labor organization or partnership for purposes of influencing the result of an election must register as a political action committee.¹⁴⁴

If the organization spends in excess of \$1,000 for an independent expenditure in a city or town election during a reporting period, they shall file an expenditure report with the clerk for the applicable reporting period. Expenditure reports shall identify the candidate or ballot measure supported or opposed, office sought by the

¹⁴¹ [Ariz. Const., art. VII, § 16.](#)

¹⁴² [A.R.S. § 16-907 \(D\), \(G\).](#)

¹⁴³ [A.R.S. §§ 16-916, 16-922.](#)

¹⁴⁴ [A.R.S. § 16-905 \(D\).](#)

candidate, if any, election date, mode of advertising and first date of publication, display, delivery or broadcast of the advertisement. The 24-hour notification requirement has been repealed.

An expenditure is **not** an independent expenditure¹⁴⁵ if either of the following applies:

1. There is actual coordination with respect to an expenditure between a candidate or candidate's agent and the person making the expenditure or that person's agent.
2. The expenditure is based on nonpublic information about a candidate's or candidate committee's plans or needs that the candidate or candidate's agent provides to the person making the expenditure or that person's agent and the candidate or candidate's agent provides the nonpublic information with an intent toward having the expenditure made.

In evaluating whether an expenditure is an independent expenditure, the clerk or city or town attorney may consider the following to be rebuttable evidence of coordination:

1. Any agent of the person making the expenditure is also an agent of the candidate whose election or whose opponent's defeat is being advocated by the expenditure.
2. In the same election cycle, the person making the expenditure or that person's agent is or has been authorized to raise or spend monies on the candidate's behalf.
3. In the same election cycle, the candidate is or has been authorized to raise money or solicit contributions on behalf of the person making the expenditure.

Coordination does **not** exist under either of the following:

If the person making the expenditure maintains a firewall between the person and that person's agent in compliance with all of the following:

1. The person's agent did not participate in deciding to make the expenditure or in deciding the content, timing or targeting of the expenditure;
 - a. The person making the expenditure has a written policy establishing the firewall and its requirements.
 - b. Solely because an agent of a person making the expenditure serves or has served on a candidate's host committee for a fund-raising event.

An expenditure that is coordinated with a candidate, other than a coordinated party expenditure, is deemed an in-kind contribution to the candidate.

Any entity that makes an independent expenditure must register as a committee only if it is organized for the primary purpose of influencing the result of an election and knowingly receives contributions or makes expenditures, in any combination, of at least \$1,000 in connection with any election during a calendar year.¹⁴⁶ If the committee test is met, the entity shall file with the city clerk as a political action committee under the regular campaign finance laws. If the test is not met, the entity does not have to register but must file Expenditure reports. Reports shall identify the candidate or ballot measure supported or opposed, office sought by the candidate, if any, election date, mode of advertising and first date of publication, display, delivery or broadcast of the advertisement. This information is reflected in Schedule B(6) in the Campaign Finance Report Forms and a person reporting independent expenditures can submit this schedule along with the cover sheet.¹⁴⁷ No other reporting information is required.

Website Posting

The clerk must provide the option for electronic filing and shall make all statements and reports publicly available on the internet. The city or town may comply by opting into the Secretary of State's electronic filing system or utilizing the fillable pdf versions of campaign finance forms in this Manual and posting to the city or town website. The electronic filing requirement applies to all cities and towns and there is no longer an exemption for a city or town with a population less than two thousand five hundred persons.¹⁴⁸ The statements and reports must be posted

¹⁴⁵ [A.R.S. § 16-922](#).

¹⁴⁶ [A.R.S. § 16-905](#).

¹⁴⁷ [A.R.S. § 16-926 \(H\)](#).

¹⁴⁸ [A.R.S. § 16-928](#)

online. A fee is no longer required to opt-in to the Secretary's system; however, the system may not be ready for local filings until the 2019-2020 election cycle.

FINANCIAL DISCLOSURE LAW

Candidates for elected office must file a financial disclosure statement with the city or town clerk when filing nomination papers.¹⁴⁹ This financial disclosure statement must include all the information as required by your city or town ordinance or resolution. A local public officer has the option of filing any financial disclosure statements in an electronic format as prescribed by the Secretary of State.¹⁵⁰ The Secretary of State has issued a pdf format for the Financial Disclosure Statement for all Public Officers that public officials can email to the clerks in order to fulfill the electronic format requirement. This electronic format is optional and public officials may continue to submit the Statement in paper form to your office, in person or by mail. The [Secretary of State's Financial Disclosure Handbook](#) is available to provide additional guidance, but please remind your local officers that the Statement in the Handbook is directed to Statewide and Legislative candidates and the Secretary's online system.

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 \$500.¹⁵¹

¹⁴⁹ [A.R.S. § 38-545.](#)

¹⁵⁰ [A.R.S. § 18-444.](#)

¹⁵¹ [A.R.S. § 38-544.](#)

CHAPTER III – ELECTION PROCEDURES

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 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. Additionally, a city or town that does not hold an election concurrently with a general election (even-numbered years) must be called no longer than 120 days before the election.¹⁵² This requirement requires notification of the election to the county, but does not reinstate publication requirement. Accordingly, we recommend publication of a call of election at least 120 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, 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 120 days prior to the election. It is recommended that candidate packets be available at least six months prior to the election.

Political Signs¹⁵³

State law 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).
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.

¹⁵² [A.R.S. § 16-226](#).

¹⁵³ [A.R.S. § 16-1019](#); See also [Whether A.R.S. § 16-1019 Requires An Amendment, Ariz. Op. Atty. Gen. No. I15-011 \(2015\)](#).

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 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. "Primary election" is deemed to be the actual date of the primary pursuant to A.R.S. §16-201 and does not begin when early ballots are mailed for the primary election.¹⁵⁴ 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.

Important Note: On June 18, 2015, the U.S. Supreme Court found that Town of Gilbert's sign code was unconstitutional because the code regulates speech based on the subject matter. The Town had distinguished different categories of signs based on their content (i.e. Temporary Directional, Political, Ideological, etc.) Due to the impact of the court's decision on sign codes around the nation, it is strongly encouraged that you discuss enforcement of the state's political sign statute with your attorney prior to election season.

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

¹⁵⁴ [Response to Representative Kelly Townsend re Definition of Primary Election, Ariz. Informal Op. Atty. Gen. No. I16-006 / R16-014 \(2016\).](#)

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.¹⁵⁵ 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 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.¹⁵⁶

The Secretary of State has specified in the Election Procedures Manual a maximum allowable wait time of thirty minutes for any election and methods to reduce voter wait time at the polls in the primary and general elections to develop a wait time reduction plan. 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.

Registration Lists

Pursuant to state law, all cities and towns must use county registration lists.¹⁵⁷ 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.¹⁵⁸ 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.¹⁵⁹ 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. The register must be retained by the city or town clerk for verification purposes on election day, and delivered by the clerk to the early election board.
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.¹⁶⁰

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) _____.

¹⁵⁵ [A.R.S. § 16-411 \(H\).](#)

¹⁵⁶ [A.R.S. § 16-411 \(B\).](#)

¹⁵⁷ [A.R.S. §§ 9-823, 16-172.](#)

¹⁵⁸ [A.R.S. § 16-120.](#)

¹⁵⁹ [A.R.S. § 16-168 \(B\).](#)

¹⁶⁰ [A.R.S. § 16-169 \(A\).](#)

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, 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.¹⁶¹

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.¹⁶² Once again, this will not apply with a consolidated election; the county will maintain that record for all elections on the ballot.

The clerk must ensure that electronic data from, and electronic or digital images of, ballots are protected from physical and electronic access, including unauthorized copying or transfer, and that all security measures are at least as protective as those prescribed for paper ballots.¹⁶³

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.¹⁶⁴

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.

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.¹⁶⁵ 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.¹⁶⁶ 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.

¹⁶¹ [A.R.S. §§ 16-169, 16-511.](#)

¹⁶² [A.R.S. § 16-621 \(D\).](#)

¹⁶³ [A.R.S. § 16-625.](#)

¹⁶⁴ [A.R.S. §§ 16-166, 16-583.](#)

¹⁶⁵ [A.R.S. § 9-825.](#)

¹⁶⁶ [A.R.S. § 16-531.](#)

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:¹⁶⁷

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.¹⁶⁸ 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.¹⁶⁹ Once again, these appointments and requirements will be handled by the county in consolidated elections.

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.¹⁷⁰ As an alternative to developing new information, you may publish Schedule A of the state budget forms to meet this requirement.

Sample Ballots

A city or town may distribute a mailer-type sample ballots to voters.¹⁷¹ At least forty-five days prior to both the primary and general election, the clerk must prepare a proof of a sample ballot which is printed without endorsement or certificate.¹⁷²

Additionally, a city or town with a partisan election must mail a sample ballot proof to each candidate who has filed nomination papers and petitions and for partisan elections, submit the ballot proof to the city or town chairman. Within five days after receipt of the proof, the chairman may suggest changes to the ballot. If the clerk finds an error or omission in the ballot, the clerk must correct it.

¹⁶⁷ [A.R.S. § 16-532.](#)

¹⁶⁸ [A.R.S. § 16-536.](#)

¹⁶⁹ [A.R.S. § 16-531 \(G\).](#)

¹⁷⁰ [A.R.S. § 9-246.](#)

¹⁷¹ [A.R.S. § 16-461\(E\).](#)

¹⁷² [A.R.S. § 16-461 \(A\).](#)

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.¹⁷³

Finally, there are a number of restrictions on the printing and distribution of such sample ballots.¹⁷⁴ 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. The sample ballot cannot be marked and used as an official ballot except if voting machines are out of order, and cannot be repaired or substituted.¹⁷⁵

Paper Ballots

State law requires that paper ballots for early voters be available not later than the thirty-three days before any city or town election.¹⁷⁶ 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.¹⁷⁷ 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.¹⁷⁸ The printing or distributing of counterfeit ballots is a class 5 felony.¹⁷⁹

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.¹⁸⁰ 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.¹⁸¹

Voters may cast their votes by simply making a mark according to instructions in the appropriate space on the paper ballot.¹⁸² 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.¹⁸³

Early Voting

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.

¹⁷³ [A.R.S. § 16-545 \(B\)](#).

¹⁷⁴ [A.R.S. § 16-461 \(D\) - \(G\)](#).

¹⁷⁵ [A.R.S. § 16-574](#).

¹⁷⁶ [A.R.S. § 16-545 \(B\) \(1\)](#).

¹⁷⁷ [A.R.S. § 16-508](#).

¹⁷⁸ [A.R.S. § 16-509](#).

¹⁷⁹ [A.R.S. § 16-1002](#).

¹⁸⁰ [A.R.S. § 16-464](#).

¹⁸¹ [A.R.S. § 16-502 \(providing the form of the ballot\)](#).

¹⁸² [A.R.S. § 16-502 \(B\), \(I\)](#).

¹⁸³ [A.R.S. § 16-400](#).

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.¹⁸⁴

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.¹⁸⁵

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.¹⁸⁶ 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.¹⁸⁷

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.¹⁸⁸ 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 Elections Procedures Manual to send the early ballot materials.¹⁸⁹ Only the elector may be in possession of their unvoted early ballot.¹⁹⁰

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.¹⁹¹ 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.¹⁹²
2. A copy of the ballot with "Early" printed or stamped on the ballot.¹⁹³

¹⁸⁴ [A.R.S. § 16-541 \(A\).](#)

¹⁸⁵ [A.R.S. § 16-135.](#)

¹⁸⁶ [A.R.S. § 16-542 \(C\).](#)

¹⁸⁷ [A.R.S. § 16-542 \(A\), \(H\).](#)

¹⁸⁸ [A.R.S. § 16-543.](#)

¹⁸⁹ [A.R.S. § 16-542 \(C\) - \(D\).](#)

¹⁹⁰ [A.R.S. § 16-542 \(D\).](#)

¹⁹¹ [A.R.S. § 16-547 \(B\).](#)

¹⁹² [A.R.S. § 16-547 \(C\).](#)

¹⁹³ [A.R.S. § 16-545 \(A\).](#)

3. A ballot affidavit envelope that does not reveal the voter's selections and is "tamper evident" when properly sealed.¹⁹⁴
4. A return envelope.¹⁹⁵

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.¹⁹⁶

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.

Special Note: For cities and towns that hold an election on the consolidated election date, a voter who is not a member of a political party has the option to select a party ballot that includes nonpartisan offices and ballot questions, or a ballot with only nonpartisan offices and ballot measures.¹⁹⁷ The voter must select an option, and there is no statutory requirement that the voter will receive a ballot if a selection is not made. The voter may still vote at an early voting site or on election day if no ballot choice is selected.

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. 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, 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 action 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 action committee or other organization must be submitted within six business days after receipt by a candidate or political action committee or eleven days before the election day, whichever is earlier, to the political subdivision that will conduct the election. Any person, political action 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

¹⁹⁴ [A.R.S. §§ 16-545 \(B\) \(2\), 16-547 \(A\).](#)

¹⁹⁵ [A.R.S. § 16-542 \(C\).](#)

¹⁹⁶ [A.R.S. § 16-551 \(C\).](#)

¹⁹⁷ [A.R.S. § 16-542\(A\).](#)

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.¹⁹⁸

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.

Distribution of Early Ballot Request Forms

A candidate, political action 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, which may be the county. All early ballot request forms that are received by a candidate or political action committee must be transmitted within six business days after receipt by the candidate or political action 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.¹⁹⁹

Disposition of Early Ballots

If the city or town is conducting the election, 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.²⁰⁰ 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 as prescribed by the Secretary of State's Procedures Manual for processing and tabulating early ballots.²⁰¹

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.)²⁰²

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.²⁰³ 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.²⁰⁴ 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

¹⁹⁸ [A.R.S. § 16-544 \(L\). \(M\).](#)

¹⁹⁹ [A.R.S. § 16-542 \(J\).](#)

²⁰⁰ [A.R.S. § 16-550 \(A\).](#)

²⁰¹ [A.R.S. § 16-551 \(C\)](#)(The statute references rules issued by the Secretary, but no administrative rules exist for this process. The State's 2014 Procedures Manual provides this information).

²⁰² [A.R.S. § 16-552\(A\).](#)

²⁰³ [A.R.S. § 16-549.](#)

²⁰⁴ [A.R.S. § 16-549 \(D\).](#)

who is a candidate for office other than precinct committeeman is not eligible to serve on the special election board.²⁰⁵

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.²⁰⁶

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.²⁰⁷

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.²⁰⁸

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.²⁰⁹

Rotation of Names

Candidate names are rotated on the ballot in accordance with the privileges and immunities provision of the State Constitution.²¹⁰ 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.²¹¹ 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. Titles of offices must be arranged in order to clearly indicate the candidates for each office and the number to be elected.²¹²

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, Articles 4 & 5, before proceeding with an election using vote tabulating equipment. You may also wish to review the Secretary's Election Procedures Manual, and the Help America Vote Act (HAVA) requirements.

²⁰⁵ [A.R.S. § 16-549 \(A\).](#)

²⁰⁶ [A.R.S. § 16-549 \(D\).](#)

²⁰⁷ [A.R.S. § 16-549 \(B\).](#)

²⁰⁸ [A.R.S. §§ 16-548, 16-549 \(E\).](#)

²⁰⁹ [A.R.S. § 16-581.](#)

²¹⁰ [Ariz. Const. art. II, § 13](#); *see also* [Kautenburger v. Jackson, 85 Ariz. 128, 333 P.2d 293 \(1958\)](#) (holding that the rotation of names provision is applicable to voting machines).

²¹¹ [A.R.S. § 16-464 \(D\).](#)

²¹² [A.R.S. § 16-468.](#)

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, if applicable.
11. Official return envelopes.
12. Unofficial return envelopes.
13. Instructions to voters.
14. Needles and twine (for paper ballot stubs).
15. 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 (recommended even if information is 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.²¹³ 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.²¹⁴ 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.²¹⁵ Although there is no legal requirement for a U.S. flag to be flown at each polling place in a municipal election not conducted by the county, it is customary to display the flag while the polls are open.²¹⁶

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..²¹⁷

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.²¹⁸ 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 voter is allowed to bring in materials but electioneering materials cannot be displayed at the polls. A minor may accompany a voter into the polling place.²¹⁹

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.²²⁰ 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.²²¹

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.²²² In this regard, the Attorney General has ruled that radio or television

²¹³ [A.R.S. § 16-511.](#)

²¹⁴ [A.R.S. § 16-513.01.](#)

²¹⁵ [A.R.S. § 16-514.](#)

²¹⁶ [A.R.S. § 16-512.](#)

²¹⁷ [A.R.S. § 16-515 \(B\).](#)

²¹⁸ [A.R.S. §§ 16-1017, 16-1018; City of Phoenix v. Superior Ct. ex rel Maricopa Cty., 101 Ariz. 265, 419 P.2d 49 \(1966\); State v. Robles, 88 Ariz. 253, 355 P.2d 895 \(1960\).](#)

²¹⁹ [A.R.S. § 16-515.](#)

²²⁰ [City of Phoenix v. Superior Ct. ex rel Maricopa Cty., 101 Ariz. 265, 419 P.2d 49 \(1966\).](#)

²²¹ [A.R.S. § 16-1017; Political Activities on Election Day, Ariz. Op. Atty. Gen. No. 64-32-L \(1964\).](#)

²²² [A.R.S. § 16-1018; Placement of Political Signs near Polls, Ariz. Op. Atty. Gen. No. 66-23 \(1966\).](#)

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.²²³

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.²²⁴

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 1993.²²⁵ 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.²²⁶
2. Election wagers.²²⁷
3. Coercion or intimidation of an elector.²²⁸
4. Intimidation of an elector by his employer.²²⁹
5. Changing the vote of an elector by a corrupt means or by inducement.²³⁰
6. Interference with or corruption of an election officer; interference with voting equipment.²³¹
7. Willful neglect of duty by an election officer.²³²
8. The refusal of an election officer to perform their duties.²³³

²²³ [Political Activities on Election Day, Ariz. Op. Atty. Gen. No. 64-32-L \(1964\).](#)

²²⁴ [A.R.S. § 16-411 \(H\).](#)

²²⁵ [1993 Ariz. Sess. Laws Ch. 133, § 42.](#)

²²⁶ [A.R.S. § 16-1014.](#)

²²⁷ [A.R.S. § 16-1015.](#)

²²⁸ [A.R.S. § 16-1013.](#)

²²⁹ [A.R.S. § 16-1012.](#)

²³⁰ [A.R.S. § 16-1006.](#)

²³¹ [A.R.S. § 16-1004.](#)

²³² [A.R.S. § 16-1009.](#)

²³³ [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.²³⁴
10. Offering or receiving any compensation for a ballot.²³⁵
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.²³⁶
12. Knowingly collecting voted or unvoted early ballots from another person is a Class 6 Felony. The following individuals are deemed to have not "collected" an early ballot *if the person is engaged in official duties*: An election official (undefined); a U.S. Postal Service Worker; or any other person who is allowed by law to transmit U.S. mail.²³⁷

Other individuals who are "collecting" ballots are exempt from the penalty due to their relationship with the voter. These individuals include a family member who is related to the voter by blood, marriage, adoption or legal guardianship; a household member who resides at the same residence as the voter; or a caregiver of the voter who provides medical or health care assistance to the voter in a residence, nursing care institution, hospice facility, assisted living center, assisted living facility, assisted living home, residential care institution, adult day health care facility, or adult foster care home.

An election held by a special taxing district formed pursuant to Title 48 for the purpose of protecting or providing services to agricultural lands or crops is also exempt from the ballot collection law.

The 2016 legislation did not provide enforcement authority to the clerks but if you suspect any violation of the law, contact your city attorney about how to manage the situation.

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.²³⁸ 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.

²³⁴ [A.R.S. § 16-1019.](#)

²³⁵ [A.R.S. § 16-547 \(C\).](#)

²³⁶ [A.R.S. § 16-1005.](#)

²³⁷ [A.R.S. § 16-1005 \(H\), \(I\).](#)

²³⁸ [A.R.S. § 16-564.](#)

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."²³⁹

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

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 conditional provisional ballot. The Secretary of State's "Procedure for Proof of Identification and Provisional Ballot Processing 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

²³⁹ [A.R.S. § 16-565.](#)

- 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.

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 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 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.²⁴⁰
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 Secretary's Election Procedures Manual 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.²⁴¹
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.

²⁴⁰ [A.R.S. § 16-579 \(A\).](#)

²⁴¹ [A.R.S. § 16-579 \(D\), \(E\).](#)

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.²⁴²
6. After the person has voted, the voter shall deposit the ballot in the ballot box. If the voter requests, the voter may hand the ballot to the election board official to deposit the ballot in the ballot box.²⁴³
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.²⁴⁴
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.²⁴⁵
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.²⁴⁶
10. 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.²⁴⁷

On completion of the ballot, the election official must keep the "provisional ballot" envelope and deposit the envelope in the ballot box. Within five business days after the election (ten calendar days if the general election includes a federal office), 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.²⁴⁸

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 of such a voter must be placed in a separate envelope on the outside of which is written:

- A. Precinct name or number.

²⁴² [A.R.S. § 16-580 \(E\).](#)

²⁴³ [A.R.S. § 16-580 \(C\).](#)

²⁴⁴ [A.R.S. §§ 16-135, 16-583.](#)

²⁴⁵ [A.R.S. § 16-584 \(A\).](#)

²⁴⁶ [A.R.S. § 16-584 \(B\).](#)

²⁴⁷ [A.R.S. §§ 16-135 \(A\) – \(D\), 16-584 \(C\).](#)

²⁴⁸ [A.R.S. § 16-584 \(D\).](#)

- 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).

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 (ten calendar days if the general election includes a federal office). 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. If the registration is not verified the ballot shall remain unopened and shall be retained in the same manner as voted ballots.²⁴⁹

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.²⁵⁰

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 Manual.²⁵¹

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.²⁵² 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.²⁵³ 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:²⁵⁴

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 a "permitted address" (see A.R.S. § 16-121).

²⁴⁹ [A.R.S. § 16-584 \(E\).](#)

²⁵⁰ [A.R.S. §§ 16-513, 16-563.](#)

²⁵¹ [A.R.S. § 16-513.01.](#)

²⁵² [A.R.S. § 16-584 \(F\).](#)

²⁵³ [A.R.S. § 16-591.](#)

²⁵⁴ [A.R.S. § 16-591.](#)

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. 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.²⁵⁵ 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.²⁵⁶

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.²⁵⁷ 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. For partisan elections, the notice must be provided to the chairman of the political parties included on the ballot.

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 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

²⁵⁵ [A.R.S. § 16-592 \(A\).](#)

²⁵⁶ [A.R.S. § 16-592 \(B\), \(C\).](#)

²⁵⁷ [A.R.S. § 16-552.](#)

election officials and challenge lists must be a part of the official returns and must be delivered to the city or town council.²⁵⁸

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. It is recommended that the same time keeping device be used throughout the day in order to maintain consistency. 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.²⁵⁹

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 action 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.²⁶⁰ 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.²⁶¹

Ballots which are spoiled must be marked “spoiled” on the backs thereof by the inspector and one judge.²⁶² 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.²⁶³

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.

²⁵⁸ [A.R.S. § 16-594.](#)

²⁵⁹ [A.R.S. § 16-565.](#)

²⁶⁰ [A.R.S. § 16-621 \(A\).](#)

²⁶¹ [A.R.S. § 16-602.](#)

²⁶² [A.R.S. § 16-585](#) (providing the method of disposing of spoiled ballots).

²⁶³ [A.R.S. § 16-609.](#)

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 (A)(2) states:

If you wish to vote for a person whose name is not printed on the ballot, write such name in the blank space provided on the ballot, and put a mark according to the instructions next to the name so written.²⁶⁴

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.

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.²⁶⁵ 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 postponements is the maximum allowable under Arizona law.²⁶⁶

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:²⁶⁷

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.

²⁶⁴ [A.R.S. § 16-400](#) (providing the definition of a mark); *see also* [A.R.S. § 16-502](#) (providing ballot marking instructions).

²⁶⁵ [A.R.S. § 16-624](#).

²⁶⁶ [A.R.S. § 16-642](#).

²⁶⁷ [A.R.S. § 16-646](#).

4. The number of votes by precincts and city or town received by each candidate.
5. For each candidate race in a city or town, the number of ballots cast and the number of active registered voters in each city or town (and portion) for which a candidate may be elected.
6. The numbers and a brief title of each proposed city charter amendment and each initiated or referred measures voted on.
7. 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.²⁶⁸ There is no specific method to use as long as there is an equal chance of winning or losing.

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.²⁶⁹ 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.²⁷⁰

A letter declaring nomination will not be issued to a write-in candidate in a partisan election 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(D),(E). The law is silent for nonpartisan elections, and while we believe a reasonable interpretation is that the same rules apply, it is important that your city or town determine how it will handle write-ins if a runoff is necessary. Please discuss this issue with your attorney before the canvass.

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.²⁷¹ As a best practice, if no general election is necessary because all offices are filled at the primary, candidates are sworn in after the date the general election would have been held so there is an fixed term of office for all council members. 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

²⁶⁸ [A.R.S. § 16-649.](#)

²⁶⁹ [A.R.S. §§ 9-821,16-645.](#)

²⁷⁰ [A.R.S. § 9-821.01\(D\).](#)

²⁷¹ [A.R.S. § 9-232.](#)

Medicare taxes. Beginning January 1, 2000, it also indexes this threshold amount, allowing it to be adjusted with other such thresholds.²⁷²

Recount of Votes

City and town elections are covered by the recount statute, and must proceed with an automatic requirement if the margin between two candidates for a particular office to be declared elected or to proceed to the general election is less than or equal to *the lesser of the following*:

- One-tenth of one percent of the number of votes cast for both candidates or upon such measures or proposals.
- Ten votes in the case of an office to be filled by the electors of a city or town or a county or subdivision of a city, town or county.

For example, if the votes cast for Candidate A was 3,005 and Candidate B was 2,995, the total votes is 6,000. While the margin is 10 votes, you must also calculate the percentage under the statute: one-tenth of one percent of 6,000 is 6 votes and since this is lesser than 10, a recount is not required under this circumstance because the margin between the candidates is not within 6. 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.²⁷³

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.²⁷⁴ A contest of the election may be made on the following grounds:²⁷⁵

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. That the person whose right is contested, or any person acting for him or her, 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. On account 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.²⁷⁶ Where illegal voting is alleged as the cause of the contest, the court may rely on proportionate deduction to determine if the margin of electoral victory is exceeded by the number of invalid votes for votes cast in more than one precinct.²⁷⁷
5. For reasons of erroneous count of the votes.²⁷⁸
6. 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.²⁷⁹ Furthermore,

²⁷² [42 U.S.C. § 410\(a\)\(7\)\(F\)\(iv\)](#).

²⁷³ [A.R.S. § 16-661; Recounts in Primary Elections, Ariz. Op. Atty. Gen. No. 74-21 \(1974\)](#).

²⁷⁴ [Kerby v. Griffin, 48 Ariz. 434, 444, 62 P.2d 1131 \(1936\)](#); *see also memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to J. Kendall Hansen, Atty. for the City of St. Johns (May 8, 1975)*.

²⁷⁵ [A.R.S. § 16-672. Moore v. City of Page, 148 Ariz. 151, 713 P.2d 813 \(Ariz. Ct. App. 1986\)](#).

²⁷⁶ [Grounds v. Lawe, 67 Ariz. 176, 193 P.2d 447 \(1948\)](#).

²⁷⁷ [Huggins v. Superior Court In & For County of Navajo, 163 Ariz. 348, 788 P.2d 81 \(1990\)](#); *see also Clay v. Town of Gilbert, 160 Ariz. 335, 773 P.2d (App. 1989)*.

²⁷⁸ [Millet v. Board of Supervisors of Maricopa County, op cit](#).

²⁷⁹ [Harless v. Lockwood, 85 Ariz. 97, 332 P.2d 887 \(1958\)](#); [Griffin v. Buzard, 86 Ariz. 166, 342 P.2d 201 \(1959\)](#); *see also Griffin v. Buzard, 86 Ariz. 174, 342 P.2d 206 (1959)*.

election contests are purely statutory and depend upon statutory provisions for their conduct.²⁸⁰ The results of an election must be declared by the election officials before any contest may be held.²⁸¹

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.²⁸² 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.²⁸³
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.²⁸⁴ 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.²⁸⁵ If the contestee does not answer the summons, the court may hear the case ex parte (without the contestee taking part in the hearing).²⁸⁶

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.²⁸⁷

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.²⁸⁸ When the ballots have been destroyed without attempting a concealment or fraud prior to an election contest, the court will not void the election.²⁸⁹

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.²⁹⁰ 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.²⁹¹

²⁸⁰ [Fish v. Redeker, 2 Ariz. App. 602, 411 P.2d 40 \(1966\).](#)

²⁸¹ [Schahrer v. Bell, 34 Ariz. 334, 271 P. 715 \(1928\).](#)

²⁸² [A.R.S. § 16-673 \(A\).](#)

²⁸³ [Kitt v. Holbert, 30 Ariz. 397, 248 P. 25 \(1926\).](#)

²⁸⁴ [A.R.S. § 16-673.](#)

²⁸⁵ [A.R.S. § 16-675 \(A\).](#)

²⁸⁶ [A.R.S. § 16-675 \(A\).](#)

²⁸⁷ [A.R.S. § 16-676 \(A\).](#)

²⁸⁸ [A.R.S. § 16-677.](#)

²⁸⁹ [Findley v. Sorenson, 35 Ariz. 265, 276 P. 843 \(1929\).](#)

²⁹⁰ [A.R.S. § 16-676 \(B\), \(C\).](#)

²⁹¹ [Hunt v. Campbell, 19 Ariz. 254, 169 P. 596 \(1917\).](#)

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 2,500.²⁹²

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 and elections held to approve or authorize a transaction privilege tax assessment 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 cannot 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.²⁹³ "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 Attorney General has opined that "anything of value" includes an employee's time during normal work hours.²⁹⁴

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.²⁹⁵

²⁹² [A.R.S. § 18-302.](#)

²⁹³ [A.R.S. § 9-500.14.](#)

²⁹⁴ [Use of Public Funds to Influence the Outcomes of Elections, Ariz. Op. Atty. Gen. No. I15-002 \(2015\).](#)

²⁹⁵ [Kromko v. City of Tucson, 202 Ariz. 499, 47 P. 3d 1137, \(App. 2002\)](#) (finding that the City of Tucson was providing educational information to the public about traffic issues and the communication violates the statute, if the communication, "taken as a whole, unambiguously urges a person to vote in a particular manner").

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.²⁹⁶ In reviewing initiatives and referendums for cities and towns, the courts require strict compliance for referendums but only substantial compliance for initiatives.²⁹⁷ 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.

The sample petitions conform to state law for city and town measures. The Secretary of State has instituted an electronic program to access petitions for statewide measures, which includes submission of information that is not required for local measures. If an applicant questions the differences between the state and local forms, share this information and suggest the applicant seek legal counsel for further analysis.

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.²⁹⁸ The Arizona Supreme Court ruled in a 1990 decision²⁹⁹ 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.)³⁰⁰ 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.³⁰¹ 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

²⁹⁶ [A.R.S. § 19-141 \(A\)](#).

²⁹⁷ [Western Devcor, Inc. v. City of Scottsdale](#), 168 Ariz. 426, 814 P.2d 767 (1991); [De Szendeffy v. Threadgill](#), 178 Ariz. 464, 874 P.2d 1021 (Ariz. Ct. App. 1994); [Feldmeier v. Watson](#), 211 Ariz. 444, 123 P.3d 180 (2005); [Wilhelm v. Brewer](#), 219 Ariz. 45, 192 P.3d 404 (2008); [Forzt v. Rodriguez](#), 212 Ariz. 263, 130 P.3d 538 (Ariz. Ct. App. 2006); [Arrett v. Bower](#), 237 Ariz. 74, 345 P.3d 129 (Ariz. Ct. App. 2015); [Pedersen v. Bennett](#), 230 Ariz. 556, 288 P.3d 760 (2012); [A.R.S. § 19-101.01](#).

²⁹⁸ [Ariz. Const., art. IV, pt 1, § 1 \(8\)](#); see also [A.R.S. §§ 19-101- 19-129](#) (providing the petition form, the manner of circulation, and the methods of filing the petition).

²⁹⁹ [City of Flagstaff v. Mangum](#), 164 Ariz. 395, 793 P.2d 548 (1990).

³⁰⁰ [League Model Ordinance on Initiatives and Referendums](#).

³⁰¹ [A.R.S. § 19-143](#).

issue.³⁰² The local law proposed must be a legislative not an administrative act and must deal with a single subject.³⁰³ Whether an act is legislative or administrative is a matter to be discussed with your attorney. The clerk cannot accept an initiative petition issued for circulation more than twenty-four months before the general election at which the measure is to be included on the ballot.³⁰⁴

REFERENDA ACTIONS

The two types of referenda actions are as follows:

1. Referendum for charter amendments.³⁰⁵
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.³⁰⁶ 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.³⁰⁷ 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 30-day period for filing a referendum begins on the day that such ordinance or resolution is available from the clerk. Therefore the 30-day clock does not begin until the ordinance or resolution is available to the applicant. However, if the referendum involves rezoning of a parcel of property, the 30-day period begins on the day that the rezoning ordinance or *approved minutes or portion of the approved minutes* are available from the clerk and the ordinance is not operative until 30 days after the ordinance or minutes are available.

State law 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.³⁰⁸

The ordinance, however, is effective immediately if it carries the emergency clause, and such ordinances are not subject to a referendum petition.³⁰⁹ It takes at least ten percent of the municipal electors to propose a referendum on legislation enacted by the council,³¹⁰ 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 town-wide election where a mayor or an

³⁰² [A.R.S. § 12-921.](#)

³⁰³ [Robertson v. Graziano, 189 Ariz. 350, 942 P. 2d 1182 \(Ariz. Ct. App 1997\); Arizona Together v. Brewer, 214 Ariz. 118, 149 P.3d 742 \(2007\); McLaughlin v. Bennett, 225 Ariz. 351, 238 P.3d 619 \(2010\); Save Our Vote, Opposing C-03-2012 v. Bennett, 231 Ariz. 145, 291 P.3d 342 \(2013\).](#)

³⁰⁴ [A.R.S. § 19-121\(D\).](#)

³⁰⁵ [A.R.S. § 19-143.](#)

³⁰⁶ [A.R.S. § 19-142.](#)

³⁰⁷ [Lawrence v. Jones, 199 Ariz. 446, 18 P.3d 1245 \(Ariz. Ct. App. 2001\).](#)

³⁰⁸ [A.R.S. § 19-142 \(C\)-\(D\); A.R.S. §§ 19-111 \(B\), 19-112, . Fidelity Nat. Title Co., Inc. v. Town of Marana, 220 Ariz. 247, 204 P. 3d 1096 \(Ariz. Ct.App.2009\).](#)

³⁰⁹ [A.R.S. § 19-142 \(B\).](#)

³¹⁰ [Ariz. Const., art. IV, pt 1, § 1 \(8\).](#)

at-large councilmember was chosen last preceding the submission of the application for the referendum petition.³¹¹ 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 city³¹² or where referral is required or specifically allowed by statute.³¹³ 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.³¹⁴

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:³¹⁵
 - 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.³¹⁶
 - 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.³¹⁷
 - F. An application must be accompanied by a Statement of Organization of the political action committee the clerk is prohibited from accepting an application that is not accompanied by the Statement of Organization.³¹⁸
 - G. Request for issuance of an official number to appear on all the petitions.

³¹¹ [A.R.S. § 19-142. Jones v. Paniagua. 221 Ariz. 441, 212 P. 3d 1142 \(Ariz. Ct. App. 2009\).](#)

³¹² [City of Scottsdale v. Superior Ct. ex rel Maricopa Cty., 103 Ariz. 204, 439 P.2d 290 \(1968\); A.R.S. § 19-143; memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to Cathy Connolly, Asst. Dir., League of Ariz. Cities & Towns \(July 1, 1996\) \(concluding that a city or town does not have the authority to voluntarily submit an ordinance to a vote of the people\); see also memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns to Town Attorney \(Oct. 20, 1977\).](#)

³¹³ See [A.R.S. § 42-6006](#) (providing authority to hold an election relating to local sales tax).

³¹⁴ [Respect Promise in Opposition to R-14-02-Neighbors for a Better Glendale v. Hanna, 238 Ariz. 296, 360 P.3d 92 \(App. 2015\); Wennerstrom v. City of Mesa. 169 Ariz. 485, 821 P.2d 146 \(1991\); Wade v. Greenlee County. 173 Ariz. 462, 844 P. 2d 629\(Ariz. Ct.App. 1992\); Fritz v. City of Kingman. 191 Ariz. 432, 957 P.2d 337 \(1998\); Redelsperger v. City of Avondale. 207 Ariz. 430, 87 P.3d 843 \(Ariz. Ct.App. 2004\); Stop Exploiting Taxpayers v. Jones. 211 Ariz. 576, 125 P.3d 396 \(Ariz. Ct.App. 2005\); Israel v. Town of Cave Creek, 196 Ariz. 150, 993 P.2d 1114 \(Ariz.Ct.App. 1999\); Grosvenor Holdings L.C. v. City of Peoria, 195 Ariz. 137, 985 P.2d 622 \(Ariz. Ct.App. 1999\) and Tax Reform Act of 1990, Ariz. Op. Atty. Gen. No. 90-068 \(1990\); see also memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to Catherine Connolly, Asst. Dir., League of Ariz. Cities & Towns \(May 11, 1995\).](#)

³¹⁵ [A.R.S. § 19-111.](#)

³¹⁶ [Sklar v. Town of Fountain Hills. 220 Ariz. 449, 207 P. 3d 702 \(Ariz. Ct.App.2008\).](#)

³¹⁷ [A.R.S. § 19-121.](#)

³¹⁸ [A.R.S. § 19-111 \(A\).](#)

The clerk will then issue an official number to the applicants. (An amended Statement of Organization must be filed within ten 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 this information to cities and towns, which can be found in the [Initiative and Referenda Handbook](#).

- 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. Paid circulators must register with the Secretary of State if they are circulating statewide measures. Local paid circulators are not required to register with the State. Cities and towns are not required to provide circulator training materials.³¹⁹
 - I. The political action 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.
 - J. Printed in black ink on white or recycled white pages fourteen inches in width by eight and one half inches in length, with a margin of at least one half inch at the top and one fourth inch at the bottom of each page. The Secretary of State may prescribe an alternative page width and length in the Election Procedures Manual, adopted pursuant to A.R.S. § 16-452.
- 2. Initial Receipt. When the person or group circulating the petition returns the petitions, the clerk immediately issues an [initial receipt](#), which may be electronically issued. 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.³²⁰ Once the petition is filed it cannot be withdrawn as a whole nor can individual signatures be withdrawn.³²¹ The clerk may prescribe the method of filing, including electronic filing.³²²).
 - 3. Grouping of Petition Sheets: The political action committee that is the proponent of the petition and that files the petitions shall organize the signature sheets and group them by circulator and is solely responsible for compliance. The clerk may return as unfiled any signature sheets not so organized or grouped.³²³
 - 4. 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:³²⁴

A. Remove the following:

³¹⁹ [A.R.S. § 19-111\(E\)](#).

³²⁰ [Fleischman v. Protect our City, 214 Ariz. 406, 153 P. 3d 1035 \(2007\)](#).

³²¹ [A.R.S. § 19-113; Circulators of Initiative Petitions, Ariz. Op. Atty. Gen. No. I84-062 \(1984\)](#).

³²² [A.R.S. § 19-121\(C\)](#).

³²³ [A.R.S. § 19-121\(C\)](#).

³²⁴ [A.R.S. §§ 19-121.01, 19-141 \(D\)](#). [Van Riper v. Threadgill, 183 Ariz. 580, 905 P. 2d 589 \(Ariz. Ct.App. 1995\)](#); [Transportation Infrastructure Moving Arizona's Economy v. Brewer, 219 Ariz. 207, 196 P. 3d 229 \(Ariz. Ct. App. 1995\)](#); [Meyers v. Bayless, 192 Ariz. 376, 965 P. 2d 768 \(1998\)](#); [Forszt v. Rodriguez, 212 Ariz. 263, 130 P.3d 538 \(Ariz. Ct. App. 2006\)](#); [Harris v. City of Bisbee, 219 Ariz. 36, 192 P. 3d 162 \(Ariz. Ct.App. 2008\)](#).

- (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.³²⁵
 - (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. Any petition that contains a partially completed affidavit or an affidavit that has been modified is invalid.³²⁶
 - (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.³²⁷
 - (8) Those sheets circulated by a circulator who has been convicted of petition signature fraud.³²⁸
 - (9) Those sheets on which the circulator is required to be registered with the Secretary of State³²⁹ and the circulator is not properly registered at the time the petitions were circulated.
- B. For a city or town in more than one county, review each sheet to determine the county of majority of the signers.
- (1) Place a three or four-letter appreciation designating that county on the face of the petition.
 - (2) Remove all signatures of those not in the county of majority on each sheet placing an adjacent mark or striking through the signature line.³³⁰
 - (3) Cause all signature sheets to be grouped together by county of registration of those signing. The detached copies of the title and text of the measure shall be made available to the applicant, but may be disposed of after a reasonable period of time.³³¹
- C. After completing the above steps, remove the following signatures that are not eligible for verification by placing an adjacent mark or striking through 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 serial number was assigned to the political action committee that 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.

³²⁵ [Memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to Catherine Connolly, Asst. Dir., League of Ariz. Cities & Towns \(Nov. 26, 1996\).](#)

³²⁶ [A.R.S. § 19-112\(F\).](#)

³²⁷ [A.R.S. §§ 19-101, 102.](#)

³²⁸ [A.R.S. §19-119.01.](#)

³²⁹ [A.R.S. § 19-118.](#)

³³⁰ All signatures on a sheet shall be registered voters in the same county. If signatures from more than one county appear on the same signature sheet, only the valid signatures from the same county that are more numerous on the signature sheet shall be counted. See [A.R.S. § 19-112\(C\)](#).

³³¹ [A.R.S. § 19-121.01\(A\)\(2\).](#)

- (5) Signatures withdrawn.³³²
- (6) Signatures for which the clerk determines that the petition circulator has printed the elector's first and last names or other information.³³³

These are the statutory reasons directly authorizing the clerk to remove sheets or signatures. Title 19 contains other requirements for initiative or referendum petitions. Typically, other legal deficiencies are reviewed by the court. **Please consult with your attorney if you have questions about your responsibilities relating to removal of sheets or signatures.**

- D. After the removal of petition sheets and signatures, count the number of signatures for verification on the remaining petition sheets and note that number on the face of each petition sheet.
 - E. 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.
 - F. Count all remaining petition sheets and signatures not previously removed and notify 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 in a clear manner.
- A. If a signature line selected for the random sample is found to be blank or was removed from the verification process, 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 transmit 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 and shall transmit the copy by personal delivery, certified mail or electronic mail or other electronic transfer method 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.

³³² [A.R.S. § 19-113](#).

³³³ [A.R.S. § 19-112](#).

- 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.³³⁴

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.³³⁵ The clerk will retain an electronic copy of all signature sheets. After the time period for legal challenges has elapsed, the original sheets shall be made available to the applicant but may be disposed of after a reasonable period of time.³³⁶

- 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:³³⁷
 - A. All signatures removed.³³⁸
 - B. All signatures that were found ineligible by the county recorder and that were not subtracted above.
 - 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

³³⁴ [A.R.S. § 19-121.01](#) (A),(1), or (3).

³³⁵ [A.R.S. § 19-121.02 \(C\)](#).

³³⁶ [A.R.S. § 19-121.01](#).

³³⁷ [A.R.S. §§ 19-121.04 \(A\), 19-114](#).

³³⁸ [A.R.S. §§ 19-121.01, 19-141](#); see also [Van Riper v. Threadgill](#), 183 Ariz. 580, 905 P. 2d 589 (Ariz. Ct.App. 1995).

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.³³⁹

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.³⁴⁰
12. **Withdrawal of Signature.** Any person who has signed a petition may withdraw his or her signature not later than 5:00 p.m. on the date the petitions are actually submitted to the clerk. Any person may withdraw the signature by signing a simple statement of intent to withdraw his or her name at the office of the clerk. Also, a person may withdraw the 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.³⁴¹

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.³⁴² 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 4 months prior to election.³⁴³

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.³⁴⁴ Recent legislation also allows any person to contest the validity of an initiative and requires multiple actions to be consolidated in the appropriate venue.³⁴⁵

Actions Upon Submitting Referendum Petition

³³⁹ [A.R.S. § 19-121.04](#); [Save Our Public Lands Coalition v. Stover](#), 135 Ariz. 461, 662 P.2d 136 (1983).

³⁴⁰ [A.R.S. § 19-121.05](#).

³⁴¹ [A.R.S. § 19-113](#).

³⁴² [Memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to Catherine F. Connolly, Asst. Dir., League of Ariz. Cities & Towns \(Aug. 19, 1991\)](#).

³⁴³ [Ariz. Const. art IV, pt 1, § 1 \(4\)](#); [Cuvelier v. Schmitz](#), 193 Ariz. 479, 974 P. 2d 995(Ariz. Ct. App. 1999)(holding the Town's code requiring submission of initiative petitions 120 days before the election was valid).

³⁴⁴ [Winkle v. City of Tucson](#), 190 Ariz. 413, 949 P.2d 502 (1997); [League of Ariz. Cities & Towns v. Brewer](#), 213 Ariz. 557, 146 P.3d 58 (2006).

³⁴⁵ [A.R.S. § 19-122](#).

If the requisite number of signatures are obtained on a referendum petition, it may be filed with the clerk.³⁴⁶ 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.³⁴⁷ The petition must be filed within 30 days after the passage of the ordinance against which the petition is directed.³⁴⁸ 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.³⁴⁹

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.³⁵⁰ Recent legislation also allows any person to contest the validity of an initiative and requires multiple actions to be consolidated in the appropriate venue.³⁵¹

Legal Action Against City or Town

If the clerk refuses to accept and file an initiative or referendum petition; or refuses to transmit signature sheets or circulator affidavits to the county for certification under A.R.S. § 19-121.01, the clerk must provide to the person who submitted the measure, a written statement of the reason for the refusal. Within five calendar days after the refusal an action may be brought against the clerk to compel action. Either party may appeal to the supreme court within five calendar days after entry of judgment. Actions relating to local measures shall be heard in the superior court in the county in which the majority of the population of that city or town results.³⁵²

PETITION SIGNATURE FRAUD

There are special penalties for petition signature fraud which apply to initiative, referendum and recall petitions.³⁵³ 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 action 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.

³⁴⁶ [A.R.S. §§ 19-121, 19-141](#) .

³⁴⁷ [Barry v. Alberty, 173 Ariz. 387, 843 P.2d 1279 \(Ariz. Ct.App. 1992\).](#)

³⁴⁸ [A.R.S. § 19-142.](#)

³⁴⁹ [A.R.S. § 19-126 \(A\).](#)

³⁵⁰ [Dewey v. Jones, 159 Ariz. 409, 767 P. 2d 1199 \(Ariz. Ct.App. 1989\).](#)

³⁵¹ [A.R.S. § 19-122.](#)

³⁵² [A.R.S. § 19-122\(A\),\(D\).](#)

³⁵³ [A.R.S. § 19-119.01.](#)

CAMPAIGN EXPENSES

Any committee that files an application for an initiative or referendum petition must file a Statement of Organization at the same time as the person or organization files its application.³⁵⁴ Title 16 does not require registration until certain criteria are met; however, Title 19 specifies that *signatures are void and shall not be counted if the Statement of Organization is not filed before signatures are obtained on petitions.*³⁵⁵ 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.

The filing deadlines specified in Chapter 2 also apply to special elections so when a special election is called, a pre- and post-election report will be due during the specified timeframe around the election. The Statement of Organization must be filed within ten days of the entity meeting the definition of a political action committee.

An entity that makes independent expenditures or ballot measure expenditures in excess of \$1,000 during a reporting period shall file an expenditure report with the clerk for the applicable reporting period. Expenditure reports shall identify the candidate or ballot measure supported or opposed, office sought by the candidate, if any, election date, mode of advertising and first date of publication, display, delivery or broadcast of the advertisement.³⁵⁶

Contribution limits do not apply to initiative or referendum or other non-candidate elections.³⁵⁷

Campaign Finance Reporting

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.³⁵⁸

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.

Any contract for pamphlet publication or mailing shall require the contractor to pay a penalty for each day of mailing that occurs on or after the earliest date for receipt of requested early ballots. The penalty shall be one cent for each household with a registered voter for each day of late mailing and the monies shall be paid to the clerk. 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.³⁵⁹ The clerk is required to post the publicity pamphlet on the city or town website as soon as is practicable after the pamphlet is printed.³⁶⁰ 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.³⁶¹ The clerk must prominently post on its website the dates on which the ballot measure filings are due and the date of the election. Arguments filed for inclusion in the publicity pamphlet must include a sworn statement from the person sponsoring the argument; for organizations submitting arguments

³⁵⁴ [A.R.S. § 19-111.](#)

³⁵⁵ [A.R.S. § 19-114\(B\).](#)

³⁵⁶ [A.R.S. § 16-926 \(H\).](#)

³⁵⁷ [Proposition 200, Ariz. Op. Atty. Gen. No. I87-150 \(1987\).](#)

³⁵⁸ [A.R.S. § 16-918, City of Sierra Vista v. Sierra Vista Wards System Voting Project, 229 Ariz. 519, 278 P. 3d 297 \(2012\).](#)

³⁵⁹ [A.R.S. § 19-141.](#)

³⁶⁰ [A.R.S. § 19-123.](#)

³⁶¹ [A.R.S. § 19-141 \(C\).](#)

the sworn statement must be from two executive officers and for political action committees submitting arguments the sworn statement of the committee's chairman or treasurer must be included.³⁶² The statute does not specify the language of the sworn statement. The League suggests the following (subject to your attorney's approval):

I declare under penalty of perjury that the foregoing information is true and correct and I am the sponsor of this argument advocating or opposing this measure, question or proposition.

Each argument must be submitted to the clerk in an electronic format. Arguments are limited to 300 words in length. The clerk must provide for the electronic submittal of deposit payments.

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 400.³⁶³ 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.³⁶⁴

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.

CHALLENGE OF INITIATIVE OR REFERENDUM MEASURES³⁶⁵

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.

³⁶² [A.R.S. § 19-124 \(A\).](#)

³⁶³ [A.R.S. § 19-125\(B\).](#)

³⁶⁴ [A.R.S. § 19-125.](#)

³⁶⁵ [A.R.S. § 12-921.](#)

RECALL ELECTIONS

Recall elections are governed by the Arizona Constitution and Arizona Revised Statutes. 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.³⁶⁶ 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.³⁶⁷ The recall process is now subject to strict compliance with constitutional and statutory requirements.³⁶⁸ The method of securing a recall is as follows:³⁶⁹

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.
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 action 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.³⁷⁰ 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.³⁷¹ The petition must also include a statement of not more than 200 words explaining the reasons for the recall.³⁷²
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.³⁷³
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 is 25% of the number of votes cast at the last preceding general election for all of the candidates for the office held by the officer, and must be calculated according to the following procedure established by a 1979 court case: 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

³⁶⁶ [A.R.S. § 19-201.](#)

³⁶⁷ [Ariz. Const., art. VIII, pt 1, §§1, 5; A.R.S. § 19-202; Circulation of Petitions to Recall a Public Officer, Ariz. Op. Atty. Gen. No. 81-064 \(1981\); memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to Cathy Connolly, League of Ariz. Cities & Towns \(Jan. 17, 1983\); memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to Catherine F. Connolly, Asst. Dir., League of Ariz. Cities & Towns \(Apr. 13, 1990\).](#)

³⁶⁸ [A.R.S. § 19-201.01.](#)

³⁶⁹ [Ariz. Const., art. VIII, pt 1, § 1; A.R.S. §§ 19-201 - 19-217.](#)

³⁷⁰ [Application of Title 16 to Recall Committees, Ariz. Op. Atty. Gen. No. I11-003 \(2011\).](#)

³⁷¹ [A.R.S. § 19-202.01\(C\).](#)

³⁷² [Ariz. Const. art. VIII, pt 1, § 2; A.R.S. § 19-203; see also Ross v. Bennett, 228 Ariz 174, 265 P.3d 356 \(2011\)](#)(finding that “the purpose of recall was to permit the electorate to get rid of an officer...for any or no reason. Therefore, the grounds...may be very general in their nature and character”).

³⁷³ [A.R.S. § 19-202.01 \(D\).](#)

then divided by the number of offices to be filled at that election. This number is then multiplied by 25%.³⁷⁴

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.

Candidate X receives	250	votes
Candidate Y receives	350	votes
Candidate Z receives	200	votes
	800	votes
	÷ 2	<u>council seats</u>
	= 400	
	x .25	
	100	signatures required for the recall petition

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.**

- 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.
- 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.³⁷⁵ Out of state circulators must register with the Secretary of State.³⁷⁶ Paid circulators must register with the Secretary of State if they are circulating statewide measures. Local paid circulators are not required to register with the State.
- 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. There is no random sample requirement - on recall petitions, each signature is checked and transmitted to the county for verification. 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.³⁷⁷ If there are not sufficient signatures, the clerk returns the petitions to the person or organization that submitted them.
- 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.
- 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.³⁷⁸ 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.
- 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

³⁷⁴ [Ariz. Const. art. VIII, pt 1, § 1](#); see also [Johnson v. Maehling, 123 Ariz. 15, 597 P2d 1 \(1979\)](#).

³⁷⁵ [A.R.S. § 19-205.02](#).

³⁷⁶ [A.R.S. § 19-118](#).

³⁷⁷ [A.R.S. § 19-208.01](#).

³⁷⁸ [A.R.S. § 19-208.03](#).

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.³⁷⁹

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 within ten calendar days after judgment.³⁸⁰
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. If the office fails to provide a defensive statement, the right to have a statement printed on the ballot shall be considered waived.³⁸¹
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.³⁸²
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.³⁸³ 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.³⁸⁴ 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.³⁸⁵ The form of the nomination petition is found in A.R.S. § 19-212 and is included in the Recall Packet. The statements on the recall petition and the officer's statement also appear on the ballot.³⁸⁶

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.³⁸⁷ The election is conducted in the same manner as prescribed for the general election.³⁸⁸ 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.³⁸⁹ 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.³⁹⁰

³⁷⁹ [A.R.S. § 19-113.](#)

³⁸⁰ [A.R.S. § 19-208.04\(B\).](#)

³⁸¹ [Ariz. Const. art. VIII, pt 1, § 3;](#) [A.R.S. § 19-207.](#)

³⁸² [Ariz. Const., art. VIII, pt 1, § 3;](#) [A.R.S. § 19-209.](#)

³⁸³ [A.R.S. § 19-212;](#) [Abbey v. Green, 28 Ariz. 53, 235 Pac. 150 \(1925\),](#) and [A.R.S § 19-212.](#)

³⁸⁴ [Ariz. Const., art. VIII, pt 1, § 4;](#) [A.R.S. § 19-212 \(A\).](#)

³⁸⁵ [A.R.S. § 19-212 \(F\).](#)

³⁸⁶ [A.R.S. § 19-213.](#)

³⁸⁷ [A.R.S. § 19-214 \(A\), \(B\).](#)

³⁸⁸ [Ariz. Const. art. VIII, pt 1, § 6;](#) [A.R.S. § 19-215.](#)

³⁸⁹ [A.R.S. § 19-216.](#)

³⁹⁰ [Ariz. Const. art. VIII, pt 1, § 5;](#) [A.R.S. § 19-202;](#) [Arizona City Sanitary Dist. v. Olson, 224 Ariz. 330, 230 P.3d 713 \(Ariz. Ct. App. 2010\).](#)

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.³⁹¹ 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.³⁹²
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.³⁹³
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, including reporting, apply to recall elections. For purposes of a recall election, “election cycle” means the period between issuance of a recall petition serial number and the latest of the following:
 - a. The date of the recall election that is called.³⁹⁴
 - b. The date that a resignation is accepted.³⁹⁵
 - c. The date that the clerk provides notice that the number of signatures is insufficient.³⁹⁶

OTHER ELECTIONS

The remaining elections described in this section outline general guidelines and is not meant as a comprehensive review of all the associated constitutional or statutory provisions. These types of elections require specialized assistance by your bond counsel, finance officers, and your attorney. Please contact these individuals for more information.

UTILITY ELECTIONS

Before a city or town constructs, purchases, acquires, or leases a public utility plant or property (or portion of the plant or property), the construction, purchase, acquisition, or lease must be authorized by the affirmative vote of a majority of qualified electors who are taxpayers of the city or town. The election may be held at the general or a special election that is called to vote on the question for that particular project.³⁹⁷

³⁹¹ [Memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to Catherine F. Connolly, Asst. Dir., League of Ariz. Cities & Towns \(Aug. 10, 1988\).](#)

³⁹² [Memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to Catherine F. Connolly, Asst. Dir., League of Ariz. Cities & Towns \(Apr. 13, 1990\).](#)

³⁹³ [A.R.S. § 19-212; Candidate Specification, Ariz. Op. Atty. Gen. No. 76-240 \(1976\).](#)

³⁹⁴ [A.R.S. § 19-209.](#)

³⁹⁵ [A.R.S. § 19-208.](#)

³⁹⁶ [A.R.S. § 19-208.01.](#)

³⁹⁷ [A.R.S. § 9-514. See also *Town of Marana v. Pima County*, 230 Ariz. 142, 281 P.3d 1010 \(Ariz. Ct. App. 2012\)\(concluding the Town’s ballot measure requesting general approval was inadequate because a municipality must obtain voter authority to acquire a particular plant or property\).](#)

This election requirement does not apply to the construction, purchase, acquisition or lease of water or sewage utilities by a city or town incorporated³⁹⁸ and separate election requirements are outlined for the construction or acquisition of a wastewater treatment that is paid with financial assistance from the Water Infrastructure Finance Authority.³⁹⁹

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.⁴⁰⁰ 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.⁴⁰¹

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.

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.⁴⁰² The call for election must state the following items:⁴⁰³

- 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.

³⁹⁸ [A.R.S. § 9-101.02.](#)

³⁹⁹ [A.R.S. § 9-571.](#)

⁴⁰⁰ [Ariz. Const., art. IX, § 8.](#)

⁴⁰¹ [Ariz. Const., art. IX, § 8.](#)

⁴⁰² [A.R.S. § 35-452.](#)

⁴⁰³ [A.R.S. § 35-455.](#)

- 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.⁴⁰⁴

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:⁴⁰⁵

- 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.
 7. Estimated tax impact of debt service for the bonds on an owner-occupied residence classified as class three,⁴⁰⁶ on commercial property classified as class one,⁴⁰⁷ and on agricultural or other vacant property classified as class two,⁴⁰⁸ 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.

⁴⁰⁴ [A.R.S. § 35-453.](#)

⁴⁰⁵ [A.R.S. §§ 9-826, 35-454.](#)

⁴⁰⁶ [A.R.S. § 42-12003.](#)

⁴⁰⁷ [A.R.S. § 42-12001](#), paragraph 12.

⁴⁰⁸ [A.R.S. § 42-12002.](#)

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.
- "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.⁴⁰⁹

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.⁴¹⁰

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:⁴¹¹

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.)⁴¹²
6. The places where votes may be cast.
7. The hours between which the polling places will be open.

⁴⁰⁹ [A.R.S. §§ 9-521, 9-521.01.](#)

⁴¹⁰ [A.R.S. §§ 9-521 - 9-540.](#)

⁴¹¹ [A.R.S. § 9-524.](#)

⁴¹² [A.R.S. § 16-204.](#)

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.⁴¹³

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.⁴¹⁴

The provisions of the election law generally apply to utility bond elections.⁴¹⁵ 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.⁴¹⁶

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.⁴¹⁷ 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.⁴¹⁸ 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.⁴¹⁹ There are limits on the maximum amount of bonds that can be issued depending on the jurisdiction's receipt of HURF.⁴²⁰

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,⁴²¹ 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.⁴²² 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.⁴²³

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.⁴²⁴ 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

⁴¹³ [A.R.S. § 9-524 \(B\)](#).

⁴¹⁴ [A.R.S. § 9-526](#).

⁴¹⁵ [A.R.S. § 9-528](#).

⁴¹⁶ [A.R.S. § 9-527](#).

⁴¹⁷ [A.R.S. § 48-681](#).

⁴¹⁸ [A.R.S. §§ 48-682, 48-688](#).

⁴¹⁹ [A.R.S. § 48-688 \(H\)](#).

⁴²⁰ [A.R.S. § 48-689](#).

⁴²¹ [A.R.S. § 9-524](#).

⁴²² [A.R.S. § 48-683 \(A\) \(4\)](#).

⁴²³ [A.R.S. §§ 48-683 - 48-687](#).

⁴²⁴ [Ariz. Const., art. XIII, § 4; A.R.S. §§ 9-501, 9-502](#).

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.)⁴²⁵

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 and the statute explains how to calculate notice.⁴²⁶

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.⁴²⁷

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.

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.⁴²⁸ 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.⁴²⁹

⁴²⁵ [A.R.S. § 9-502.](#)

⁴²⁶ [A.R.S. § 39-203.](#)

⁴²⁷ [A.R.S. §§ 9-232.03, 9-272.01; Memorandum from J. LaMar Shelley, Gen. Couns., League of Ariz. Cities & Towns, to Catherine F. Connolly, Asst. Dir., League of Ariz. Cities & Towns \(Sept. 14, 1984\).](#)

⁴²⁸ [A.R.S. §§ 9-272, 9-232.02.](#)

⁴²⁹ [A.R.S. § 9-232.02.](#)

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.⁴³⁰ The same election procedures used for bond elections apply to a consolidation election.

TOWN TO CITY ELECTION

The basic requirements for a change from town to city status 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.⁴³¹

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.

⁴³⁰ [A.R.S. § 9-121.](#)

⁴³¹ [A.R.S. §§ 9-271 to 9-276.](#)

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).⁴³²
- 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.

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.

⁴³² [A.R.S. § 9-281 \(B\)](#).

7. **Preparing the Charter**

- State law specifies that within ninety days after the election the board of freeholders must prepare the charter.⁴³³
- 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 60 days after it was presented to the city council.⁴³⁴

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.

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.⁴³⁵
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.⁴³⁶

⁴³³ [A.R.S. § 9-282 \(A\).](#)

⁴³⁴ [A.R.S. § 19-143 \(C\).](#)

⁴³⁵ [A.R.S. § 19-141 \(D\).](#)

⁴³⁶ [A.R.S. § 19-143 \(C\).](#)

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.⁴³⁷

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.⁴³⁸

Although the practices have varied in charter amendment elections in Arizona cities, questions must 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".⁴³⁹ **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.

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.⁴⁴⁰ 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:

⁴³⁷ [A.R.S. § 19-125.](#)

⁴³⁸ [Ariz. Const., art. XIII, § 2.](#)

⁴³⁹ [Kerby v. Luhrs, 44 Arizona 208, 36 P.2d 549 \(1934\).](#)

⁴⁴⁰ [Ariz. Const., art. IX, § 20 \(9\).](#)

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 será considerada en eleccion de la ciudad en e dia martes, el (dia) de (mes), 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.⁴⁴¹

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.⁴⁴²

The detailed analysis of the alternative expenditure limitation must contain the following:⁴⁴³

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.⁴⁴⁴ 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:

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.

⁴⁴¹ [A.R.S. § 41-563.01.](#)

⁴⁴² [A.R.S. § 41-563.03 \(E\).](#)

⁴⁴³ [A.R.S. § 41-563.03 \(E\).](#)

⁴⁴⁴ [A.R.S. § 19-141 \(C\).](#)

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.⁴⁴⁵

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.⁴⁴⁶

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.⁴⁴⁷

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.⁴⁴⁸ The League prepares an annual guide for those cities and towns proposing a permanent base adjustment.

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.

⁴⁴⁵ [A.R.S. § 41-563.03 \(E\)](#).

⁴⁴⁶ [Arizona Const., art. IX, § 20 \(9\)](#).

⁴⁴⁷ [Ariz. Const., art. IX, § 20 \(9\)](#).

⁴⁴⁸ [Ariz. Const., art. IX, § 20 \(6\)](#).

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.⁴⁴⁹

The detailed analysis of a proposed base adjustment to the expenditure limitation must contain the following:⁴⁵⁰

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.⁴⁵¹ 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:⁴⁵²

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.⁴⁵³

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.⁴⁵⁴

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.

⁴⁴⁹ [A.R.S. § 41-563.03 \(D\).](#)

⁴⁵⁰ [A.R.S. § 41-563.03 \(D\).](#)

⁴⁵¹ [A.R.S. § 19-141 \(C\).](#)

⁴⁵² [A.R.S. §§ 19-141; 41-563.03 \(B\).](#)

⁴⁵³ [A.R.S. § 41-563.03 \(D\).](#)

⁴⁵⁴ [A.R.S. § 41-563.03 \(G\).](#)

Emergency and One-Time Overrides

The law provides for an emergency or one-time override of the State imposed expenditure limitation in three cases.⁴⁵⁵

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.⁴⁵⁶

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.⁴⁵⁷

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.⁴⁵⁸

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.⁴⁵⁹

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.⁴⁶⁰

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.⁴⁶¹

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.⁴⁶² 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.⁴⁶³

⁴⁵⁵ [Ariz. Const., art. IX, § 20 \(2\).](#)

⁴⁵⁶ [Ariz. Const., art. IX, § 20 \(2\) \(a\).](#)

⁴⁵⁷ [Ariz. Const., art. IX, § 20 \(2\) \(b\); A.R.S. § 41-563.02.](#)

⁴⁵⁸ [A.R.S. § 41-563.02 \(E\).](#)

⁴⁵⁹ [Ariz. Const., art. IX, § 20 \(2\) \(c\).](#)

⁴⁶⁰ [A.R.S. § 41-563.01.](#)

⁴⁶¹ [A.R.S. § 41-563.02 \(A\).](#)

⁴⁶² [A.R.S. § 41-563.02 \(B\).](#)

⁴⁶³ [A.R.S. § 41-563.02 \(A\).](#)

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.⁴⁶⁴ 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.⁴⁶⁵

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.
3. Hold public hearings after publishing the second notice.
4. Vote by the council on the capital projects accumulation fund immediately following the second public hearing.⁴⁶⁶
5. Publish record of the vote and other required information immediately following the council's vote.
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.
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 in as nearly as practicable the same manner as prescribed by Title 35, Chapter 3, Article 3. The ballot must state the amount proposed to be raised by primary property taxes in the first year such a tax is

⁴⁶⁴ [Ariz. Const., art. IX, § 20 \(3\) \(d\) \(viii\).](#)

⁴⁶⁵ [A.R.S. § 41-563.01.](#)

⁴⁶⁶ [A.R.S. § 41-563.01.](#)

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.⁴⁶⁷

These steps outline the process to initiate a primary property tax.⁴⁶⁸

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.
2. A copy of the order and call of election is published once in a newspaper of general circulation in the city or town not less than 15 days nor more than 30 days prior to the day of election.
3. If there is no such newspaper, five copies of the election order and call are posted in public places in the city or town not less than 15 days nor more than 30 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 \$100,000.⁴⁶⁹
6. The deadline to submit arguments for and against the establishment of a primary property tax must be set at a public meeting and published in a newspaper of general circulation in the city or town.
7. The election is held on the third Tuesday in May.
8. The returns are made to the council, and the council canvasses and certifies the vote.
9. A copy of the approved resolution must be sent to the Property Tax Oversight Commission. Also notify the county that the city or town will be levying a property tax in the fiscal year following the election.

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.⁴⁷⁰

SALES TAX ADVISORY ELECTION⁴⁷¹

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.⁴⁷² For a city or town that schedules an election to approve or authorize a transaction privilege tax assessment, the election must be held on the November election date in an even-numbered year.⁴⁷³

GENERAL PLAN ADOPTION ELECTION⁴⁷⁴

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

⁴⁶⁷ [A.R.S. § 42-17056 \(B\)](#).

⁴⁶⁸ [A.R.S. §§ 9-524, 35-453, 35-454](#) and [42-17056](#).

⁴⁶⁹ [A.R.S. § 9-826](#).

⁴⁷⁰ [A.R.S. § 42-17056](#).

⁴⁷¹ [A.R.S. § 42-6006](#).

⁴⁷² [A.R.S. § 9-826](#).

⁴⁷³ [A.R.S. § 16-204 \(F\)](#).

⁴⁷⁴ [A.R.S. § 9-461.06](#).

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 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.

Two examples of publicity pamphlets for a general plan adoption election are below:

[Town of Gilbert, Arizona General Election, May 17, 2011](#)

[Town of Marana, Arizona General Election, May 17, 2011](#)

**ELECTION CALENDARS
AND
REFERENCE MATERIALS**

ELECTION CALENDARS

Click the links below to access the Calendars:

[2019 Spring Charter City Council-Mayor Election Calendar](#)

[2019 Spring Charter City Council-Mayor Election Table](#)

[2019 Fall Charter City Election Calendar](#)

[2019 Fall Charter City Election Table](#)

[2020 Spring City/Town Election Calendar](#)

[2020 Spring City/Town Election Table](#)

[2020 Fall City/Town Election Calendar](#)

[2020 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 due to the coverage formula being found unconstitutional.⁴⁷⁵ 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 as a matter of state policy.* 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. *Aside from Spanish, municipalities in Apache, Coconino, Gila, Graham, Navajo and Pinal counties have to provide additional oral assistance in the appropriate American Indian languages.*

Please visit the [Federal Register](#) to determine if your city or town is a covered area.⁴⁷⁶

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 Declarations	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	

⁴⁷⁵ [Memorandum from William Bock, Gen. Couns., League of Ariz. Cities & Towns, to Ken Strobeck, Exec. Dir., League of Ariz. Cities & Towns \(July 12, 2013\).](#)

⁴⁷⁶ [Federal Register, Vol. 81, No. 233](#) (Monday, December 5, 2016).

The State Attorney General has issued an opinion concerning the applicability of the Voting Rights Act minority language amendments on the preparation of State and county election materials⁴⁷⁷. 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 Native American community leaders be contacted about persons qualified to administer this type of oral assistance. The Native American 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 Native American 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 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 or email: Voting.Section@usdoj.gov. For more information the website is www.usdoj.gov/crt/voting.

⁴⁷⁷ [Application of Minority Language Requirements, Ariz. Op. Atty. Gen. No. 76-1 \(1976\).](#)

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:

Name of Form	Date Issued	Constitution/Statute
Candidate Checklist	9/30/18	N/A
Nonpartisan Nomination Paper	9/30/18	A.R.S. § 16-311
Nonpartisan Nomination Paper – Write-In	9/30/18	A.R.S. §§ 16-311, 16-312
Nonpartisan Nomination Petition*	7/17/12	A.R.S. §§ 16-314, 16-315
Financial Disclosure Statement	12/2018	A.R.S. §§18-444, 38-541, 38-543, 38-544, 38-545
Financial Disclosure Handbook	12/2018	
Committee Statement of Organization	11/5/16	A.R.S. §16-906
Campaign Finance Report Forms	8/22/18	A.R.S. § 16-926
Committee Termination Statement	11/5/16	A.R.S. § 16-934

* (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.)

CAMPAIGN FINANCE FORMS

Name of Form	Date Issued	Constitution/Statute
Failure to File Delinquency Notice	11/2017	A.R.S. § 16-937
Notice of Temporary Suspension	9/30/18	A.R.S. § 16-937
Notice of Permanent Suspension	9/30/18	A.R.S. § 16-937
Campaign Contribution Limits	1/2019	A.R.S. §§ 16-912 - 16-917
Campaign Finance – Candidate Guide	9/2018	A.R.S. §§ 16-926, 16-937
Campaign Finance Report Schedule - Election Year	9/30/18	A.R.S. §16-927
Campaign Finance Report Schedule - Non-Election Year	9/30/18	A.R.S. §16-927
Statement of Registration (OPTIONAL form for Independent Expenditures)	11/2016	N/A

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:

Name of Form	Date Issued	Constitution/Statute
<u>Application for Initiative-Referendum Petition Serial Number</u>	9/30/2018	A.R.S. § 19-111
<u>Initiative Petition</u>	9/30/2018	Ariz. Const., art. IV, §1, Pt. 1 A.R.S § 19-102
<u>Referendum Petition</u>	9/30/2018	Ariz. Const., art. IV, §1, Pt. 1 A.R.S. § 19-101
<u>Initiative & Referendum Guide</u>	5/2018	Ariz. Const.; Title 19
<u>Sample Ordinance & Ballot Language for Direct Election of Mayor</u>	9/24/2003	
<u>Committee Statement of Organization</u>	11/5/16	A.R.S. §16-906
<u>Campaign Finance Report Forms</u>	8/22/18	A.R.S. § 16-926
<u>Committee Termination Statement</u>	11/5/16	A.R.S. § 16-934

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)

Name of Form	Date Issued	Constitution/Statute
Application for Recall Petition Serial Number	9/30/2018	A.R.S. §19-202.01
Recall Petition	9/30/2018	Ariz. Const., art. VIII A.R.S. § 19-204
Nomination Petition for Recall Election	9/30/2018	A.R.S. § 19-212
Initiative, Referendum, & Recall Laws	9/30/2018	A.R.S. Title 19, art. I, II
Committee Statement of Organization	11/5/16	A.R.S. §16-906
Campaign Finance Report Forms	8/22/18	A.R.S. § 16-926
Committee Termination Statement	11/5/16	A.R.S. § 16-934
Receipt (for when petitions submitted)	11/2/2016	N/A

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.

Name of Form	Date Issued	Constitution/Statute
Candidate Checklist	9/30/18	N/A
Nonpartisan Nomination Paper	9/30/18	A.R.S. § 16-311
Nonpartisan Nomination Paper – Write-In	9/30/18	A.R.S. §§ 16-311, 16-312
Nomination Petition for Recall *	7/17/12	A.R.S. §§ 16-314, 16-315
Financial Disclosure Statement	12/2018	A.R.S. §§18-444, 38-541, 38-543, 38-544, 38-545
Financial Disclosure Handbook	12/2018	
Committee Statement of Organization	11/5/16	A.R.S. §16-906

* (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.)

WORDS AND PHRASES LIST - LISTA DE PALABRAS Y FRASES

Vote for not more than _____ Vote por no más de _____

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

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

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.

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.

Mayor	Alcalde
Council	Concjo
Councilmen	Concejales, Miembros del Concejo Municipal
Councilman	Concejal
Primary	Primarias
General	Generales
Election	Elecciones
City	Ciudad
Town	Pueblo
Ward	Distrito
Aldermen	Corregidores
Ballot	Boleta, Cédula
County	Condado
Candidate	Candidatos
Vote	Vote Aquí
Exit	Salida
Special	Especiales
Sample Ballot	Modelo de boleta
City Clerk	Secretario (male); Secretaria (female) Municipal
Office (Such as Office of Mayor)	Cargo
Marshal	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	Febrero	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.

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.

A.R.S. – 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.

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.

Calendar quarter – A period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31.

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 money, advance, deposit or other thing of value that is made to a person 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 – An individual who receives contributions or makes expenditures or who gives consent to another person to receive contributions or make expenditures on behalf of that individual in connection with the candidate's nomination, election or retention for any public office.

Candidate committee – A committee that includes the candidate, 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

Canvass – The official results of the election that are maintained as public record of the election. The official canvass must contain specified information under A.R.S. § 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 A.R.S. §§ 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 A.R.S. §§ 18-444, 38-541 - 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 A.R.S. § 9-825.

Election cycle – The two-year period beginning on the first day of the calendar quarter after the calendar quarter in which the city’s or town’s second runoff or general election is scheduled and ending on the last day of the calendar quarter in which the city’s or town’s immediately following second, runoff or general election is scheduled, however that election is designated by the city or town. For purposes of a recall election, “election cycle” means the period between issuance of a recall petition serial number and the latest of the following:

- (a) The date of the recall election that is called pursuant to A.R.S. § 19-209.
- (b) The date that a resignation is accepted pursuant to A.R.S. § 19-208.
- (c) The date that the clerk provides notice pursuant to A.R.S. § 19-208.01 that the number of signatures is insufficient.

For purposes of a special election, “election cycle” means the period between the date of issuance of a proclamation or order calling the special election and the last day of the calendar quarter in which the special election is held.

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.

Entity – A corporation, limited liability company, labor organization, partnership, trust, association, organization, joint venture, cooperative, unincorporated organization or association or other organized group that consists of more than one individual.

Excess contribution – A contribution that exceeds the applicable contribution limits for a particular election.

Expenditure – Any purchase, payment or other thing of value that is made by a person for the purpose of influencing an election.

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.

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. (A.R.S. § 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.

Person – An individual or a candidate, nominee, committee, corporation, limited liability company, labor organization, partnership, trust, association, organization, joint venture, cooperative or unincorporated organization or association.

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 action committee – An entity that is required to register as a committee because the entity is organized for the primary purpose of influencing the result of an election, and the entity knowingly receives contributions or makes expenditures, in any combination, of at least \$1,000 in connection with any election during a calendar year.

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 preference 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.

Primary purpose: – An entity’s predominant purpose. Notwithstanding any other law or rule, an entity is not organized for the primary purpose of influencing an election if all of the following apply at the time the contribution or expenditure is made:

- (a) The entity has tax exempt status under Section 501(a) of the Internal Revenue Code.
- (b) Except for a religious organization, assembly or institution, the entity has properly filed a Form 1023 or Form 1024 with the Internal Revenue Service or the equivalent successor form designated by the Internal Revenue Service.
- (c) The entity’s tax exempt status has not been denied or revoked by the Internal Revenue Service.
- (d) The entity remains in good standing with the Arizona Corporation Commission.
- (e) The entity has properly filed a Form 990 with the Internal Revenue Service or the equivalent successor form designated by the Internal Revenue Service in compliance with the most recent filing deadline established by the Internal Revenue Service regulations or policies.

Proposition – A proposed law, revision or amendment submitted to the voters at an election for approval or rejection.

Provisional Ballot – formerly known as “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.

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.

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)

Special election cycle – Please see definition of election cycle.

Standing political committee – A political action 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 action committee that intends to accept contributions or make expenditures, in any combination, of at least \$1,000. Must contain information as specified in A.R.S. § 16-906.

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 A.R.S. § 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. (A.R.S. § 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.