

City Clerk's Guide

Prepared by the Office of the Iowa Secretary of State

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www.sos.state.ia.us/elections/candidates/index.html

For more information, please contact the Secretary of State's Office or the county auditor.

Important Note: The information provided in this guide has been compiled in the Iowa Secretary of State's Office to assist candidates and the public in meeting the requirements of Iowa's election laws. If any errors in compilation or computation have occurred, or if there have been amendments to the *Iowa Code* or *Iowa Administrative Code*, the provisions of the *Iowa Code*, *Iowa Administrative Code*, and the session laws shall prevail.



Table of Contents

Responsibilities and Planning Tips

Planning Worksheets	1
Public Measures.....	1
Nomination Period.....	1
Nomination Process	1
City Primary Election	2
Regular City Election	3
City Runoff Election	4

Distributing Nomination Papers.....	6
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Signature Requirements

Overview	7
Primary or Runoff Cities	7
Chapter 45 Cities.....	7
Chapter 44 Cities.....	7

Filing Period

Dates of Filing Period	8
Delivering Nomination Papers to the Auditor	8
Withdrawals and Objections	9

Write-In Votes

City Primary.....	10
Regular City Election Without Runoff Provisions	10
Regular City Election With Runoff Provisions	11

City Runoff Election.....11

Vacancies

Overview12

Appointments – Term of Office12

Special Elections – Term of Office.....12

Office Titles12

Special Elections

Public Measures.....13

 Notice of Election to Auditor.....13

 Check for Vacancies.....13

Additional Resources14

Responsibilities and Planning Tips

Planning Worksheets

During April or May of odd-numbered years, the county auditor may provide you with a worksheet to review plans for the city election. Please complete and return the planning worksheet to the county auditor. If you do not receive a worksheet, you can find one on the Secretary of State's website at www.sos.state.ia.us/elections/auditors/forms/index.html.

Public Measures

Before the filing period begins, check with the city council to see whether they wish to include any public measures on the regular city election ballot. The filing deadline for cities to submit questions to the auditor is the day after the candidate filing period ends.

Nomination Period

The city clerk is the filing officer for city election candidates. The city clerk must be available to accept petitions and affidavits. The city clerk may designate someone to accept nomination papers as long as the designated person is a city employee or city official.

On the last day of the filing period, the city clerk's office must be open until 5 p.m.

[§376.4]

Nomination Process

The city clerk must certify to the county auditor the type of nomination process adopted by the city no later than 90 days before the regular city election. Any nomination method other than primary election must be adopted by ordinance. After certification, the nomination process cannot be changed by the city council unless the change will take effect after the upcoming city election.

[§376.6(2)]

There are five possible election/nomination method combinations.

1. A city primary election (if necessary) followed by a regular city election. Candidates file petitions to have names placed on the primary election ballot.
2. A regular city election with candidates nominated by petition **or** by convention (Chapter 44 and 45 cities)
3. A regular city election with candidates nominated by petition (Chapter 45 cities)
4. A regular city election with candidates nominated by convention (Chapter 44 cities)
5. A regular city election followed by a city runoff (if necessary). Candidates file petitions to have names placed on the regular city election ballot.

City Primary Election

If the city's ordinances do not include a specific provision naming a nomination process, Iowa law requires the city to use the city primary election process.

Candidates must file nomination papers (an affidavit of candidacy and nomination petitions) during the city primary election filing period even if a city primary turns out not to be necessary. The filing period for a city that may need to hold city primary elections is shorter and earlier than it is for cities without city primary election provisions.

Important Note: There is only one primary election filing period for each city election cycle.

A city primary election is held only if the number of candidates who file nomination papers is more than twice the number of seats to be filled for a particular office. If there are zero, one or two candidates for an office to which only one person will be elected, no city primary election is needed for that office. Only the offices with more than two candidates are included on the city primary election ballot. If more than one person will be elected to an office (e.g. at-large city councils) there will only be a primary election if there are more than twice as many candidates as there are seats to be filled.

For example, if there are two at-large seats to be filled, there will only be a primary election if there are five or more candidates.

The city primary election is held four weeks before the regular city election. Candidates who receive the most votes at the city primary election are nominated to appear on the regular city election ballot, up to twice the number of seats to be filled.

For example, if three candidates are running for one office of mayor at the city primary election, the two candidates who receive the most votes will appear on the regular city election ballot.

Regular City Election

All cities hold a regular city election. Cities that have authorized nomination by petition (Chapter 45), nomination by convention (Chapter 44), or both will only hold a regular city election, regardless of how many candidates file nomination papers for any office. This is the final election for cities with primary provisions and cities that have authorized nominations under Chapter 44, 45, or both. For cities with runoff provisions, the city runoff election may be the final election.

Nomination by Petition (Chapter 45)

Candidates collect signatures on nomination petitions to get their names on the ballot at the regular city election.

Nomination by Convention (Chapter 44)

Candidates are nominated by conventions of non-party political organizations (NPPOs). Iowa law calls a political organization not meeting the requirements to become a political party a NPPO. There are many NPPOs. NPPOs do not need to file any special paperwork to be officially recognized by the state. Candidates who are not members of any political organization may not be nominated by convention.

Important Note: Candidates nominated by NPPO convention will **not** have the name of the NPPO follow their name on the ballot because the city election is a non-partisan election.

City Runoff Election

City runoff elections are only held in cities that have authorized a runoff provision by ordinance.

Candidates must file nomination papers (an affidavit of candidacy and nomination petitions) to have their names placed on the regular city election ballot.

A city runoff election is held if one of the following occurs:

- No candidate received a majority of the votes cast for a particular office at the regular city election

OR

- A write-in candidate received a majority of the votes cast at the regular city election and then declined the office.

If necessary, the city runoff election is always held four weeks after the regular city election. Once nominated at the regular city election, candidates cannot withdraw before the city runoff election. If a city runoff election occurs, it is the final election.

The county board of supervisors canvasses the votes from the regular city election to determine which names appear on the ballot at the runoff election (if any). The names of candidates that received the most votes at the regular city election will be placed on the city runoff election ballot, up to twice the number of seats to be filled.

For example, if three at-large city council members will be elected, six candidates will be listed on the city runoff election ballot if no candidate received a majority of the votes cast.

Determining the majority of votes cast in a “vote for no more than one” race: A simple majority is needed to be declared elected. A simple majority is at least one vote more than 50% of the total votes cast. If no candidate receives a majority in this type of race, a runoff must be held between the two highest vote getters. For example, a runoff for the office of mayor will have two candidates on the runoff ballot.

Determining the majority in a “vote for two or more” race: A majority is one vote more than half the quotient found by dividing the total number of votes cast for all candidates for that body by the number of positions to be filled.

For example, Happytown has a five member at-large city council. At the city election, three at-large seats are on the ballot. The ballot for this race reads “Vote for no more than three”. There were 8 candidates on the ballot and there were 15,876 total votes cast (TVC).

To determine the majority:

1. Divide the total votes cast (TVC) by the number of seats to be filled: $15,876 \div 3 = 5,292$
2. Divide 5,292 by 2: $5,292 \div 2 = 2,646$
3. Add one to 2,646 = 2,647 (**always round up if necessary**)

The majority is 2,647. If no candidate receives a majority in this type of race or if not enough candidates received a majority to fill all the seats, a runoff will be held.

The highest vote getter, Tom, received 8,215 votes. Tom won a seat on the council. A runoff is not necessary for one of the seats.

The second highest vote getter, Nancy, received 2,488 votes. The third highest vote getter, Mark, received 1,774 votes. Neither of these candidates received a majority so two of the three council seats require a runoff. The number of candidates on the runoff ballot will equal twice the number of seats to be filled. There are two seats left to be filled in Happytown so the four highest vote getters who did not receive a majority will appear on the runoff ballot.

Distributing Nomination Papers

Prepare a list of offices to be filled at the city election. Make the list available to the public. The list should include the following:

- The correct title for each office
- Whether the office is voted for by ward or at-large
- The minimum number of signatures needed to gain ballot access
- Indicate whether an office is on the ballot to fill a vacancy

Important Note:

For cities with primary election provisions, any offices not expiring in the year of the regular city election that were filled by appointment between the last regular city election and 73 days before the regular city election, must be included on the ballot for the regular city election as “To Fill Vacancy.”

For cities without primary election provisions, any offices not expiring in the year of the regular city election that were filled by appointment between the last regular city election and 52 days before the regular city election must be included on the ballot for the regular city election as “To Fill Vacancy.”

See the Auditor’s Calendar for the City Elections for specific dates:
www.sos.state.ia.us/pdfs/elections/auditors/citycal.pdf.

Nomination papers and candidate guides are available on the Secretary of State’s website at www.sos.state.ia.us/elections/electioninfo/cityelections.html.

Provide nomination papers and candidate’s guides to anyone who requests them. It is not necessary for the city clerk to fill out the headers of the petitions for candidates or record names of people who request papers.

Candidates may start circulating nomination papers at any time.

Signature Requirements

Overview

Signatures must be valid at the time the petitions are filed. Petitions signers must be eligible to register to vote in the city or ward (if applicable), but they are not required to be registered voters.

Advise candidates that the number of signatures required is the minimum number of signatures needed to get the candidate's name on the ballot. Candidates should collect and file more than the minimum number. The number of signatures required varies with the type of nomination process.

Primary or Runoff Cities

Candidates need to collect at least 10 signatures or a number of signatures equal to 2% of the number of people who voted for that office at the last regular city election, whichever is greater.

If more than one person was elected to an office at the previous city election, divide the number of votes cast by the number of seats to be filled, then multiply that number by 0.02. If the result is a fraction, round up.

Signatures requirements are sometimes ward specific. Calculations must be done for each ward in some cities. The required number of signatures is 10 signatures or a number of signatures equal to 2% of the total number of votes cast in that specific ward for that office the last time the office was on the regular city election ballot, whichever is greater.

[§376.4]

Chapter 45 Cities

The number of required signatures is based on the city's population.

For cities with a population of 3,500 or greater, candidates need to collect at least 25 signatures.
[§45.1(8)(a)]

For cities with a population between 100 and 3,499, candidates need to collect at least 10 signatures.
[§45.1(8)(b)]

For cities with a population of 99 or less, candidates need to collect at least five signatures.
[§45.1(8)(c)]

Chapter 44 Cities

Minimum requirements are established by law for attendance at nomination conventions. If the minimum attendance requirements are not met for the specific office for which the nomination is being made, the nominations made at the convention cannot be included on the ballot.

Candidates nominated by convention need at least 10 attendees at the convention. At least half of the precincts in the city must be represented by at least one eligible elector.

[§44.1]

Filing Period

The city clerk is the filing officer for city elections. The city clerk must be available to accept filings. The city clerk may designate someone to accept nomination papers as long as the designated person is a city employee or city official.

Review the Filing Officer's Guide before the filing period begins. It provides information on receiving and reviewing nomination papers. The Filing Officer's Guide is available on the Secretary of State's website at: www.sos.state.ia.us/pdfs/elections/auditors/eah/filingofficer.pdf.

Dates of Filing Period

The filing period varies by the type of nomination method a city has authorized.

For cities with primary election provisions, the filing period begins 85 days before the regular city election and ends at 5 p.m. on the 68th day before the regular city election.

For cities without primary election provisions, the filing period begins 71 days before the regular city election and ends at 5 p.m. on the 47th day before the regular city election.

Important Note: City clerks' offices are required by law to be open until 5 p.m. on the last day for candidates to file and on the last day for candidates to withdraw.

[§43.24, 376.4(5)]

For specific dates in a given year, see the calendar in the City Candidate's Guides or the Auditor's Calendar for the City Election: www.sos.state.ia.us/pdfs/elections/auditors/citycal.pdf.

Delivering Nomination Papers to the Auditor

On the day after the last day of the filing period, deliver the following information to the county auditor:

- All accepted nomination papers
- A copy of the official city council action directing the county auditor to include public measures on the city election ballot (if any). The information given to the auditor must include the complete text of all public measures.

Important Note: Do not deliver nomination papers to the auditor's office before the filing period has ended. Nomination papers must be available for public inspection in your office until the end of the filing period.

Withdrawals and Objections

Candidate withdrawals and objections to nomination papers must be submitted in writing to the city clerk by 5 p.m. on the day of the deadline.

The withdrawal and objection deadlines vary by the type of election a city has authorized:

- **Cities with primary election provisions:**

63 days before the regular city election

- **All other cities, including cities with runoff provisions:**

42 days before the regular city election

[§376.4(6), 44.9(6)]

Notify the county auditor immediately after receiving any withdrawals or objections.

Write-In Votes

City Primary

Any person who receives write-in votes at the city primary election and who wants to be eligible to have their name placed on the ballot for the regular city election must file an affidavit of candidacy. The auditor should notify candidates of this requirement. The affidavit must be filed:

- By 5 p.m. on the day following the canvass
 - With the city clerk or with the auditor
1. The auditor must disregard the write-in votes for any write-in candidate who does not file an affidavit of candidacy.
 2. Notations must be made on the abstract showing which persons received write-in votes and filed affidavits of candidacy.
 3. The total number of votes cast for the office must be amended by subtracting the write-in votes of the candidates who did not file the affidavit.

Regular City Election Without Runoff Provisions

Write-In Candidate Wins and Accepts

No affidavit of candidacy is required. The person is declared elected as if their name had been printed on the ballot.

Write-In Candidate Wins and Declines

When a write-in candidate wins an election and does not want the job, the winning write-in candidate may submit a letter of resignation to the city clerk by 5 p.m. on the 10th day after the canvass. If the write-in winner does not resign within 10 days after the canvass, the office is vacant if the write-in winner fails to take the oath of office at the beginning of the next term.

[§376.11(1)]

If the write-in winner submits a letter of resignation, the city clerk must notify the person who received the next highest number of votes that they may assume the office at the beginning of the next term. If there is a tie vote for the next highest number of votes, the board of supervisors draws lots to determine the person who received the next highest number of votes.

[§50.44, 376.11(2)]

If the next highest vote-getter accepts by taking the oath of office at the beginning of the next term, the person is considered the duly elected officer.

Exception: A petition may be filed requesting a special election if the next highest vote-getter is notified. The petition must be signed by eligible electors of the city equal in number to 25% of the people who voted for the office in the election.

If the next highest vote getter declines, the person must do so in writing within 10 days of the notice from the city clerk. If this occurs:

- The office is vacant at the end of the term
- The vacancy must be filled pursuant to §372.13

Regular City Election With Runoff Provisions

Write-In Candidate Wins and Declines

1. The winner must file a notice of resignation with the city clerk or with the auditor by 5 p.m. on the day following the canvass.
2. All remaining persons who received write-in votes and wish to be on the city runoff ballot must file affidavits of candidacy with the city clerk or auditor by 5 p.m. on the fourth day following the canvass. The auditor should notify the write-in candidates of this requirement.
3. The abstract of votes shall be amended to show that the person who has been declared elected declined the office and a notation shall be made next to the names of those persons who did not file an affidavit.
4. A runoff election must be held even if one of the remaining candidates has a majority of the votes after the write-in votes are disregarded.

[§376.11(4)]

Runoff Election Necessary and Write-In Votes Were Cast for that Office

1. Everyone who received write-in votes must file an affidavit of candidacy by 5 p.m. on the day after the canvass with the city clerk or county auditor; the write-in votes received by a person who does not file an affidavit will be disregarded. The auditor should notify the write-in candidates of this requirement.
2. The abstract of votes shall be amended to note which of the write-in candidates failed to file the affidavit.
3. A runoff election must be held even if one of the remaining candidates has a majority of the votes after the write-in votes are disregarded.

[§376.11(5)]

City Runoff Election

If a write-in candidate wins at the city runoff election and wants the job, no affidavit of candidacy is needed. The person is declared elected, as if their name had been printed on the ballot.

Vacancies

Overview

The city council must decide whether to fill a vacancy in an elective city office either by appointment or by calling for a special election.

If appointment is chosen, the appointment must be made within 40 days after the vacancy occurs. The council must publish notice of its intention to appoint and eligible electors may petition for a special election.

[§372.13(2)]

For more information on vacancies in city offices, see the Vacancies guide on the Secretary of State's website at www.sos.state.ia.us/pdfs/elections/auditors/eah/vacancies.pdf.

Appointments – Term of Office

The term of a person who was appointed to fill a vacancy lasts until the next election held for the city.

Special Elections – Term of Office

If the city must hold a special election, the person elected to fill the vacancy serves the remainder of the unexpired term.

Office Titles

When an office is on the ballot at an election because of a vacancy, the office title on the ballot must include the words "To Fill Vacancy." This will distinguish this office from others on the ballot for the usual two or four-year term.

Candidates must indicate on their nomination papers if they are seeking an office to fill a vacancy. If there is more than one vacancy and the vacant seats have terms ending at different times, the length or expiration date of the remaining term must be included on the nomination papers and on the ballots.

Special Elections

Public Measures

Cities can only hold special elections for public measures on the following dates:

Odd-Numbered Years

- First Tuesday in March
- First Tuesday in May
- Last Tuesday in August
- First Tuesday in November (date of regular city election)

Even-Numbered Years

- First Tuesday in March
- First Tuesday in May
- First Tuesday in August
- First Tuesday in November

[§39.2(4)(c)]

Notice of Election to Auditor

Unless the law authorizing the special election requires that you provide more advance notice, you must notify the county auditor not less than 46 days before the desired date of a special election for a public measure.

Deliver to the auditor the following:

- Action by the board setting the election date
- Full text of the public measure to be submitted to the voters

Check for Vacancies

If the city has a special election for a public measure, any seats previously filled by appointment must be filled by the voters at the special election (unless the officeholders have already been elected at a previous special election after their appointments).

Additional Resources

1. County Auditor's Office

Contact your local county auditor's office with questions. You can find contact information for county auditors at the following website:

www.sos.state.ia.us/elections/auditors/auditorslist.html

2. City Attorney

Your county auditor may refer you to your city attorney. If you or the county auditor are unsure of the answer to a question, the best place to go for advice is the city attorney.

3. Secretary of State's Office

The SOS Office is open Monday through Friday from 8:00 a.m. to 4:30 p.m. For questions, call (515) 281-0145 or the toll-free hotline 1-888-SOS-VOTE.

You may also contact the Elections Division via email at sos@sos.state.ia.us.

The SOS Office has a website which is set up to serve as a resource for the general public, for candidates, for county auditors, and for city clerks and school secretaries. You can use the website to retrieve everything from general information about voting in Iowa to specific planning worksheets to help you prepare for elections. Please make use of the website.

The following items are available on the SOS website and will be of assistance to you:

- **Auditor's Calendar for the City Election**

www.sos.state.ia.us/pdfs/elections/auditors/citycal.pdf

The Elections Division produces auditor's calendars for each election. The calendars are a chronological list of things that must be done to prepare for each election and a chronological list of things that must be done following election day.

- **Election Forms Library**

www.sos.state.ia.us/elections/auditors/forms/index.html

The Election Forms Library contains all the forms produced by the SOS Office. The Library is organized by category of uses and alphabetically to help locate specific forms easily.

- **Candidate Guides**

www.sos.state.ia.us/elections/electioninfo/cityelections.html

Candidate guides are compiled by the Elections Division to assist candidates and the public in meeting the requirements of Iowa's election laws. City clerks are encouraged to furnish candidate guides and nomination papers to all potential candidates.

- **Additional Guides**

The Elections Division also creates guides for use by other people and groups. Some of these other publications were mentioned in this guide:

1. Filing Officer's Guide

www.sos.state.ia.us/pdfs/elections/auditors/eah/filingofficer.pdf

2. Vacancies Guide

www.sos.state.ia.us/pdfs/elections/auditors/eah/vacancies.pdf