

CHAPTER 376

CITY ELECTIONS

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376.1 City election held.

A city shall hold a regular city election on the first Tuesday after the first Monday in November of each odd-numbered year. A city shall hold regular, special, primary, or runoff city elections as provided by state law.

The mayor or council shall give notice of any special election to the county commissioner of elections. The county commissioner of elections shall publish notice of any city election and conduct the election pursuant to the provisions of chapters 39 to 53, except as otherwise specifically provided in chapters 362 to 392. The results of any election shall be canvassed by the county board of supervisors and certified by the county commissioner of elections to the mayor and the council of the city for which the election is held.

[R60, §1130; C73, §501; C97, §642, 936; S13, §646, 1056-a20, -a21; SS15, §1056-b5, -b6; C24, 27, 31, 35, 39, §5627, 6488, 6494, 6507, 6514, 6643, 6644, 6737; C46, 50, §363.5, 416.12, 416.18, 416.31, 416.38, 419.29, 419.30; C54, 58, 62, 66, 71, 73, §363.8, 363.20, 363.24, 363.26; C75, 77, 79, 81, § 376.1]

376.2 Terms.

1. Terms of city officers begin and end at noon on the first day in January which is not a Sunday or legal holiday, following a regular city election.

2. Except as otherwise provided by state law or the city charter, terms for elective offices are two years. However, the term of an elective office may be changed to two or four years by petition and election. Upon receipt of a valid petition as defined in section 362.4, requesting that the term of an elective office be changed, the council shall submit the question at a special election. If a majority of the persons voting at the special election approves the changed term, it becomes effective at the beginning of the term following the next regular city election. If a majority does not approve the changed term, the council shall not submit the same proposal to the voters within the next four years.

3. At the first regular city election after the terms of council members are changed to four years, terms shall be staggered as follows:

a. If an even number of council members are elected at large, the half of the elected council members who receive the highest number of votes are elected for four-year terms. The remainder are elected for two-year terms.

b. If an odd number of council members are elected at large, the majority of the elected council members who receive the highest number of votes are elected for four-year terms. The remainder are elected for two-year terms.

c. In case of a tie the mayor and clerk shall determine by lot which council members are elected for four-year terms.

d. If the council members are elected from wards, the council members elected from the odd-numbered wards are elected for four-year terms and the council members elected from even-numbered wards are elected for two-year terms.

4. After July 1, 1986, a petition submitted under this section to change the term of council members from two to four years shall specify if the terms are to be staggered or run concurrently. If the petition provides for concurrent terms and the changed term is

approved by the voters, subsection 3 shall not apply and the terms shall be concurrent. If valid petitions for staggered and concurrent terms are submitted, the first filed shall govern.

[R60, §1081, 1084, 1091, 1093, 1106; C73, §390, 511, 514, 518, 521, 535; C97, §646 – 649; S13, §646 – 649; SS15, §1056-b3; C24, 27, 31, 35, 39, §5632, 6625, 6626; C46, 50, §363.10, 419.11, 419.12; C54, 58, 62, 66, 71, 73, §363.9, 363.10, 363.28; C75, 77, 79, 81, §376.2]

86 Acts, ch 1224, §34; 2002 Acts, ch 1134, §105, 115; 2008 Acts, ch 1115, §67, 71

376.3 Nominations.

Candidates for elective city offices must be nominated as provided in sections 376.4 to 376.9 unless by ordinance a city chooses the provisions of chapters 44 or 45. However, a city acting under a special charter in 1973 and having a population of over fifty thousand shall continue to hold partisan elections as provided in sections 43.112 to 43.118 and 420.126 to 420.137 unless the city by election as provided in section 43.112 chooses to conduct city elections under this chapter or chapter 44 or 45. The choice of one of these options by such a special charter city does not otherwise affect the validity of the city's charter. However, special charter cities which choose to exercise the option to conduct nonpartisan city elections may choose in the same manner the original decision was made, to resume holding city elections on a partisan basis.

[S13, §1056-a21; SS15, §1056-b4; C24, 27, 31, 35, 39, §6492, 6496, 6634, 6638; C46, 50, §416.16, 416.20, 419.20, 419.24; C54, 58, 62, 66, 71, 73, §363.11, 363.16; C75, 77, 79, 81, §376.3; 82 Acts, ch 1097, §2]

376.4 Candidacy.

1. *a.* An eligible elector of a city may become a candidate for an elective city office by filing with the city clerk a valid petition requesting that the elector's name be placed on the ballot for that office. The petition must be filed not more than seventy-one days and not less than forty-seven days before the date of the election, and must be signed by eligible electors equal in number to at least two percent of those who voted to fill the same office at the last regular city election, but not less than ten persons. However, for those cities which may be required to hold a primary election, the petition must be filed not more than eighty-five days and not less than sixty-eight days before the date of the regular city election. Nomination petitions shall be filed not later than 5:00 p.m. on the last day for filing.

b. The petitioners for an individual seeking election from a ward must be residents of the ward at the time of signing the petition. An individual is not eligible for election from a ward unless the individual is a resident of the ward at the time the individual files the petition and at the time of election.

2. *a.* The petition must include space for the signatures of the petitioners, a statement of their place of residence, and the date on which they signed the petition. A person may sign nomination petitions for more than one candidate for the same office, and the signature is not invalid solely because the person signed nomination petitions for one or more other candidates for the office.

b. The petition must include the affidavit of the individual for whom it is filed, stating the individual's name, the individual's residence, that the individual is a candidate and eligible for the office, and that if elected the individual will qualify for the office. The affidavit shall also state that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted of a felony or other infamous crime and the candidate's rights have not been restored by the governor or by the president of the United States.

3. If the city clerk is not readily available during normal office hours, the city clerk shall designate other employees or officials of the city who are ordinarily available to accept nomination papers under this section. On the final date for filing nomination papers the office of the city clerk shall remain open until 5:00 p.m.

4. The city clerk shall review each petition and affidavit of candidacy for completeness following the standards in section 45.5 and shall accept the petition for filing if on its face it appears to have the requisite number of signatures and if it is timely filed. The city clerk shall note upon each petition and affidavit accepted for filing the date and time that they were

filed. The clerk shall return any rejected nomination papers to the person on whose behalf the nomination papers were filed.

5. Nomination papers filed with the city clerk shall be available for public inspection. The city clerk shall deliver all nomination papers together with the text of any public measure being submitted by the city council to the electorate to the county commissioner of elections on the day following the last day on which nomination petitions can be filed, and not later than 5:00 p.m. on that day.

6. Any person on whose behalf nomination petitions have been filed under this section may withdraw as a candidate by filing a signed statement to that effect as prescribed in section 44.9. Objections to the legal sufficiency of petitions shall be filed in accordance with the provisions of sections 44.4, 44.5, and 44.8.

[S13, §1056-a21, -a40; SS15, §1056-b4; C24, 27, 31, 35, 39, §6478, 6495 – 6498, 6634 – 6638; C46, 50, §416.2, 416.19 – 416.22, 419.20 – 419.24; C54, 58, 62, 66, 71, 73, §363.11 – 363.16; C75, 77, 79, 81, §376.4]

86 Acts, ch 1224, §35; 87 Acts, ch 221, §33; 88 Acts, ch 1119, §39; 89 Acts, ch 136, §72; 90 Acts, ch 1238, §40; 94 Acts, ch 1180, §55; 97 Acts, ch 170, §91; 98 Acts, ch 1052, §7; 2009 Acts, ch 57, §93; 2010 Acts, ch 1033, §51

376.4A Change to direct election of mayor — nomination petition signature requirements.

1. If there is a change in government pursuant to section 372.6, subsection 2, the number of signatures required on a nomination petition for the office of mayor for the first election that office is on the ballot shall be an amount equal to the product of the following:

a. The total number of votes cast for at-large city council offices at the last regular city election divided by the number of city council seats to be filled at the last regular city election.

b. Two hundredths.

2. If the product of subsection 1, paragraphs “a” and “b”, is less than ten, the required number of signatures is ten.

2007 Acts, ch 18, §1

376.5 Publication of ballot.

Notice containing a copy of the ballot for each regular, special, primary, or runoff city election must be published by the county commissioner of elections as provided in section 362.3, except that notice of a regular, primary, or runoff election may be published not less than four days before the date of the election. The published ballot must contain the names of all candidates, and may not contain any party designations. The published ballot must contain any question to be submitted to the voters.

[S13, §1056-a21; SS15, §1056-b4; C24, 27, 31, 35, 39, §6499, 6500, 6501, 6503, 6640; C46, 50, §416.23 – 416.25, 416.27, 419.26; C58, 62, 66, 71, 73, §363.19; C75, 77, 79, 81, §376.5]

376.6 Primary or other method of nomination — certification.

1. An individual for whom a valid petition is filed becomes a candidate in the regular city election for the office for which the individual has filed, except that a primary election must be held for offices for which the number of individuals for whom valid petitions are filed is more than twice the number of positions to be filled. However:

a. The council may by ordinance choose to have a runoff election, as provided in section 376.9, in lieu of a primary election.

b. If the council has by ordinance chosen to have nominations made in the manner provided by chapter 44 or 45, neither a primary election nor a runoff election is required.

2. Each city clerk shall certify to the commissioner of elections responsible under section 47.2 for conducting elections for that city the type of nomination process to be used for the city no later than ninety days before the date of the regular city election. If the city has by ordinance chosen a runoff election or has chosen to have nominations made in the manner provided by chapter 44 or 45, or has repealed nomination provisions under those sections in preference for the primary election method, a copy of the city ordinance shall be attached. No changes in the method of nomination to be used in a city shall be made after the clerk has

filed the certification with the commissioner, unless the change will not take effect until after the next regular city election.

[S13, §1056-a21; SS15, §1056-b4; C24, 27, 31, 35, 39, §6492, 6510, 6638; C46, 50, §416.16, 416.34, 419.24; C54, 58, 62, 66, 71, 73, §363.16, 363.18; C75, 77, 79, 81, §376.6]

88 Acts, ch 1119, §40; 2002 Acts, ch 1134, §106, 115; 2010 Acts, ch 1061, §180

376.7 Date of primary.

1. If a primary election is necessary, it shall be held on the Tuesday four weeks before the date of the regular city election. For each office on the ballot, a voter shall only vote for the number of persons to be elected to that office at the regular city election. The county board of supervisors shall publicly canvass the tally lists of the vote cast in the primary election, following the procedures prescribed in section 50.24, at a meeting to be held on the second day following the primary election, and beginning no earlier than 1:00 p.m. on that day.

2. The names of those candidates who receive the highest number of votes for each office on the primary election ballot, to the extent of twice the number of unfilled positions, must be placed on the ballot for the regular city election as candidates for that office.

[S13, §1056-a21; SS15, §1056-b5; C24, 27, 31, 35, 39, §6493, 6507, 6643; C46, 50, §416.17, 416.31, 419.29; C54, 58, 62, 66, 71, 73, §363.17, 363.24; C75, 77, 79, 81, §376.7]

86 Acts, ch 1224, §36; 2010 Acts, ch 1033, §52

376.8 Persons elected in city elections.

1. In a regular city election following a city primary, the candidates receiving the greatest number of votes cast for each office on the ballot are elected, to the extent necessary to fill the positions open.

2. In a regular city election held for a city where the council has chosen a runoff election in lieu of a primary, candidates are elected as provided by subsection 1, except that no candidate is elected who fails to receive a majority of the votes cast for the office in question. In the case of at-large elections to a multimember body, 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. In calculating the number of votes necessary to constitute a majority, fractions shall be rounded up to the next higher whole number.

3. In a regular city election held for a city where the council has chosen to have nominations made in the manner provided by chapter 44 or 45, the candidates who receive the greatest number of votes for each office on the ballot are elected, to the extent necessary to fill the positions open.

[S13, §1056-a21; SS15, §1056-b4; C24, 27, 31, 35, 39, §6492, 6638; C46, 50, §416.16, 419.24; C54, 58, 62, 66, 71, 73, §363.16; C75, 77, 79, 81, §376.8]

88 Acts, ch 1119, §41; 2010 Acts, ch 1061, §153

376.9 Runoff election.

1. A runoff election may be held only for positions unfilled because of failure of a sufficient number of candidates to receive a majority vote in the regular city election. When a council has chosen a runoff election in lieu of a primary, the county board of supervisors shall publicly canvass the tally lists of the vote cast in the regular city election, following the procedures prescribed in section 50.24, at a meeting to be held on the second day following the regular city election, and beginning no earlier than 1:00 p.m. on that day. Candidates who do not receive a majority of the votes cast for an office, but who receive the highest number of votes cast for that office in the regular city election, to the extent of twice the number of unfilled positions, are candidates in the runoff election.

2. Runoff elections shall be held four weeks after the date of the regular city election and shall be conducted in the same manner as regular city elections.

3. Candidates in the runoff election who receive the highest number of votes cast for each office on the ballot are elected to the extent necessary to fill the positions open.

[C71, 73, §363.16; C75, 77, 79, 81, §376.9]

86 Acts, ch 1224, §37; 2010 Acts, ch 1033, §53

376.10 Contest.

A nomination or election to a city office may be contested in the manner provided in chapter 62 for contesting elections to county offices, except that a statement of intent to contest must be filed with the city clerk within ten days after the nomination or election.

[C97, §678, 679; C24, 27, 31, 35, 39, §5629; C46, 50, §363.7; C54, 58, 62, 66, 71, 73, §363.22; C75, 77, 79, 81, §376.10]

97 Acts, ch 170, §92

376.11 Write-in votes.

1. Write-in votes are permitted to be cast in all elections for city offices. A person who receives a sufficient number of write-in votes to be elected to a city office shall be declared the winner of the election. If the result is a tie vote, lots shall be drawn pursuant to section 50.44. If a person who was elected by write-in votes chooses not to serve in that office, the person shall submit a resignation in writing to the city clerk not later than 5:00 p.m. on the tenth day following the canvass of the election. If a person who was elected by write-in votes resigns at a later time, the office shall be considered vacant at the end of the term and the council shall fill the vacancy pursuant to the provisions of section 372.13, subsection 2.

2. Except in cities where the council has chosen a runoff election in lieu of a primary, following the resignation of a person who was elected by write-in votes, the city clerk shall notify the person who received the next highest number of votes cast for the office that the person may assume the office. If there is more than one person who received the next highest number of votes cast for the office, lots shall be drawn pursuant to section 50.44 to determine the person who received the next highest number of votes. If the person accepts the position, the person shall be considered the duly elected officer unless, within ten days after the clerk has given notice, a petition requesting a special election is filed by eligible electors of the city equal in number to twenty-five percent of the number of persons who voted for the office at the election. If the person declines, the person shall do so in writing to the city clerk within ten days and the office shall be considered vacant at the end of the term. The vacancy shall be filled pursuant to the provisions of section 372.13, subsection 2. If the council chooses to appoint, the appointment may be made before the end of the current term.

3. In city primary elections any person who receives write-in votes shall execute an affidavit in substantially the form required by section 45.3, and file it with the county commissioner of elections or the city clerk not later than 5:00 p.m. on the day after the canvass of the primary election. If any person who received write-in votes fails to file the affidavit at the time required, the county commissioner shall disregard the write-in votes cast for that person. A notation shall be made on the abstract of votes showing which persons who received write-in votes filed affidavits. The total number of votes cast for each office on the ballot shall be amended by subtracting the write-in votes of those candidates who failed to file the affidavit. It is not necessary for a candidate whose name was printed upon the ballot to file an affidavit. Of the remaining candidates, those who receive the highest number of votes to the extent of twice the number of unfilled positions shall be placed on the ballot for the regular city election as candidates for that office.

4. In cities in which the city council has chosen a runoff election in lieu of a primary, if a person who was elected by write-in votes chooses not to accept the office by filing a resignation notice with the city clerk or commissioner of elections not later than 5:00 p.m. on the day following the canvass, all remaining persons who received write-in votes and who wish to be considered candidates for the runoff election shall execute an affidavit in substantially the form required by section 45.3 and file it with the county commissioner or the city clerk not later than 5:00 p.m. of the fourth day following the canvass. If a person receiving write-in votes fails to file the affidavit at the time required, the county commissioner of elections shall disregard the write-in votes cast for that person. The abstract of votes shall be amended to show that the person who was declared elected declined the office and a notation shall be made next to the names of those persons who did not file the affidavit. A runoff election shall be held with the remaining candidates who have the highest number of votes to the extent of twice the number of unfilled positions.

5. In a city in which the council has chosen a runoff election, if no person was declared

elected for an office, all persons who received write-in votes shall execute an affidavit in substantially the form required by section 45.3 and file it with the county commissioner of elections or the city clerk not later than 5:00 p.m. on the day following the canvass of votes. If any person who received write-in votes fails to file the affidavit, the county commissioner of elections shall disregard the write-in votes cast for that person. The abstract of votes shall be amended to note which of the write-in candidates failed to file the affidavit. A runoff election shall be held with the remaining candidates who have the highest number of votes to the extent of twice the number of unfilled positions.

[C77, 79, 81, §376.11]

88 Acts, ch 1119, §42; 2007 Acts, ch 59, §18, 19; 2010 Acts, ch 1033, §54