



**HANDBOOK FOR MINNESOTA CITIES**

**Chapter 5  
Election Procedures**

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This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

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## HANDBOOK FOR MINNESOTA CITIES

# Chapter 5 Election Procedures

*Outlines election procedures, notices, ballot requirements, qualifications and training of election judges, and voting and counting procedures. Links to sample forms and more from the Secretary of State. Also learn about voter residency and eligibility, absentee voting and voter registration; eligibility for city office candidacy, how candidates file and withdraw, campaign finance reporting and fair campaign practices.*

### RELEVANT LINKS:

[Secretary of State](#), 180 State Office Building, 100 Constitution Avenue, St. Paul, MN 55155, (651) 215-1440 or (877) 600-VOTE.

[Secretary of State's Information for Candidates.](#)

[Secretary of State's 2015-2016 Minnesota Legislative Manual \(Blue Book\).](#)

## I. Importance of elections

Conducting elections represents one of the most important tasks of local officials, particularly city clerks. As a subdivision of state government, the city must administer elections for federal, state, county, and special-district offices and questions, as well as for city offices and questions.

City officials should recognize the significance of this duty. For most citizens, voting represents how they participate in government. It is important that each voter has ample opportunity to go to the polls, fully understands how to cast a ballot, and feels confident in voter privacy and secrecy of the ballot. Additionally, all citizens must have the opportunity to file for any elective office for which they qualify.

Election results bestow political power upon those elected to office. Elections must be free of fraud or the appearance of fraud and, local officials should meticulously adhere to legal requirements to ensure fair and open elections.

## II. Resources for conducting elections

The Office of the Secretary of State has many helpful resources for conducting elections. This memo links to many of these resources, but the below list identifies some especially helpful guides:

- **Information for Candidates:** gives information to those running for elected office.
- **The Minnesota Legislative Manual (Blue Book):** contains information about the state's elected and appointed officials, the state legislature and the legislative process, as well as individual legislative district maps and color election maps. The book also includes historical documents, facts about Minnesota, and precinct-by-precinct election results.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

## RELEVANT LINKS:

[Secretary of State's current City Clerk Election Guide.](#)

[Secretary of State's current Election Judge Guide.](#)

See LMC information memo, *Calendar of Important Dates*.

[Minn. Const. art. VII, § 1.](#)  
[Minn. Stat. § 201.014, subd. 1.](#)

[Minn. Stat. § 201.014, subd. 2.](#)

[Minn. Stat. § 609B.610.](#)  
See also [A.G. Op. 68-h \(Dec. 27, 1971\)](#).

[Minn. Stat. §201.155](#)

[Secretary of State's "Felony Conviction and Voting."](#)

[Minn. Stat. § 609.165.](#)

See generally, *Minnesota Voter's Alliance v. Steve Simon*, A16-0690 (Minn. Sept. 28, 2016).

- **City Clerk Election Guide:** a comprehensive overview of conducting city elections
- **Election Judge Guide:** a comprehensive overview of election judge duties and obligations.

State statutes outline the process for conducting elections. The League also publishes an annual calendar that provides actual dates for election administrators to follow.

This chapter describes election laws in general terms as they apply to cities. New city election officials may find this information useful as a guide. Those already familiar with the election process should find this chapter useful as a checklist.

### III. Voters

In determining who may vote in any particular election, city officials have a dual responsibility: they must guarantee every qualified voter the right to vote, and they must prevent fraudulent and improper voting activities.

The Minnesota Constitution and state statutes have defined the qualifications for voting in Minnesota. To vote in any public election in Minnesota, a person must meet all of the following criteria on the day of the election:

- Age 18 or older.
- A citizen of the United States for three months.
- Resident of the state for at least 20 days.

Individuals in the following categories may not vote, even if they meet the above qualifications:

- Anyone deemed by a court of law to be legally incompetent.
- Anyone who is under guardianship in which the court order revokes the ward's right to vote.
- Anyone convicted of treason or any felony whose sentence has not expired or been discharged.

A former felon can vote after he or she has finished all parts of the felony sentence, including any probation, parole, or supervised release. Upon completion (commonly known as "off-paper"), the individual can vote, but will need to register to do so.

## RELEVANT LINKS:

[Minn. Stat. § 201.014, subd. 3.](#)

[Minn. Const. art. I, § 17.](#)

[Minn. Stat. § 200.031.](#)  
*Bell v. Gannaway*, 227 N.W.2d 797, 801 (Minn. 1975).

[Minn. Stat. § 201.195.](#)

[Minn. Stat. § 200.031.](#)

The following persons also may still vote: those charged with or convicted of a misdemeanor or gross misdemeanor; those in jail, but not serving a felony sentence; those charged with a felony, but not yet convicted; or those charged with a felony, but given a stay of adjudication.

Any person who votes knowing of their ineligibility to vote has committed a felony.

A city cannot add to or remove any of the requirements discussed above. For example, a city cannot require that a person own property in the city in order to vote.

### A. Definition of residence

Legal residence for voting largely depends on the voter intent, but the determination in each instance of residence depends on the particular facts. No general rules uniformly resolve residency questions even though the statutes provide guidance. Upon petition filed with the county auditor, any voter registered within a county may challenge the eligibility or residence of any other voter registered within that county.

Fundamentally, residence represents that place where an individual habitually resides, receives mail, and otherwise treats as an official residence and permanent home. State law provides the following guidance for determining residence:

- The residence of an individual is in the precinct where the individual's home is located, from which the individual has no present intention of moving, and to which, whenever the individual is absent, the individual intends to return.
- An individual does not lose residence if the individual leaves home to live temporarily in another state or precinct.
- An individual does not acquire a residence in any precinct of this state if the individual is living there only temporarily, without the intention of making that precinct home.
- If an individual either goes into another state or precinct with the intention of making it home or files an affidavit of residence there for election purposes, the individual loses residence in the former precinct.
- If an individual moves to another state with the intention of living there for an indefinite period, the individual loses residence in this state, notwithstanding any intention to return at some indefinite future time;
- Except as otherwise provided by law, an individual's residence is located in the precinct where the individual's family lives, unless the individual's family is living in that precinct only temporarily.

## RELEVANT LINKS:

[Secretary of State, Fact Sheet for College Students.](#)

[Minn. Stat. § 200.031\(d\).  
Minn. Const. art. VII, § 2.  
A.G. Op. 639-E \(Oct. 24, 1952\).](#)

- If an individual's family lives in one precinct and the individual lives or does business in another, the individual's residence is located in the precinct where the individual's family lives, unless the individual establishes a home in the other precinct and intends to remain there, with or without the individual's family.
- The residence of a single individual is in the precinct where the individual lives and usually sleeps.
- The mere intention to acquire a new residence is not sufficient to acquire a new residence, unless the individual moves to that location; moving to a new location is not sufficient to acquire a new residence unless the individual intends to remain there.
- The residence of an individual working temporarily in any precinct of this state remains in the precinct where the individual's permanent home is located.
- The residence of an individual who is living permanently in a soldier's home or nursing home is in the precinct where the home is located.
- If an individual's home lies in more than one precinct or political subdivision, the residence of the individual is in the precinct in which a majority of the room in which the individual usually sleeps is located.
- If an individual's home is destroyed or rendered uninhabitable by fire or natural disaster, the individual does not lose residence in the precinct where the home is located if the individual intends to return to the home when it is reconstructed or made habitable.

Cities often ask about the residence of college students and whether the student resides at the home where they live when school is out of session or the place where they live when attending college. Whether they should vote at home or in the city where they attend college depends on the intention of the voter. In circumstances where an individual may claim legal residence at either place, the place the individual regards as home represents his or her residence for the purpose of voting. For students who do not consider their school address as home, those students may apply to vote by mail with an absentee ballot.

Similar factors apply when analyzing residency of people living in another place for part of the year. The statutes specify that, if an individual registers to vote in another state, he or she loses residency in Minnesota. Individuals working for the federal government, including those in military service, do not lose their eligibility to vote while residing elsewhere. Likewise, members of the armed forces do not obtain residence in Minnesota for voting purposes solely because stationed there.

## RELEVANT LINKS:

[Minn. Stat. § 201.016, subd. 1a.](#)

[In re matter of the voter residency of Arne Engstrom, Office of Administrative Hearings \(October 28, 1992\).](#)

[Minn. Stat. ch. 201.](#)

[Minn. Stat. § 201.221, subd. 4.](#)

[Minn. Stat. § 201.091, subd. 4.](#)

A voter who votes in a precinct, other than a precinct in which he or she maintains residence, must provide proof of residence to the auditor or election judge before voting in the next election. When a portion of the property owned by a voter, particularly the dwelling house, intersects an election precinct boundary and one portion of the home sufficiently constitutes a habitation by itself while the other portion does not, the sufficient portion establishes the domicile of the residents for purposes of the precinct. In instances of equality of the portions, the voter can choose between the competing precincts. A voter who continues to vote in a precinct other than the one in which he or she maintains residence is guilty of a petty misdemeanor. Subsequent violations are misdemeanors.

## B. Permanent registration

The Legislature has established statewide voter registration with county systems linked to a centralized state system. The county auditor serves as the chief custodian of the official registration records, while the secretary of state administers the centralized state system.

Although the county auditor acts as chief registrar, the auditor may delegate some election duties to city officials. This delegation, however, requires the approval of the governing body as well as an agreement that includes a plan to allocate the cost of the delegated duties. The auditor must prepare precinct lists and an annual report. City clerks who have election duties must report annually to the county auditor.

### 1. Registration files

The county auditor must prepare and maintain a current list of registered voters in each precinct in the county. To create this master list, the county auditor enters each completed voter-registration application into the statewide voter-registration system. The county auditor must make this information list available to the public for uses related to elections, political activities and law enforcement. The list must contain the name, address, year of birth, and voting history of each registered voter in the county. The list also must include the party choice of any voter who voted in the most recent presidential nomination primary, as well as the telephone number, if any, if provided by the voter. This list may include information on voting districts. The county auditor may adopt reasonable rules governing access to the list. Before inspecting the public information list, the requesting party shall provide identification to the public official having custody of the public information list and shall state, in writing, that use of the information from the list will not be for purposes unrelated to elections, political activities, or law enforcement.

## RELEVANT LINKS:

[Minn. Stat. § 201.061, subd. 1. Secretary of State's Voter Registration Application.](#)

[Secretary of State's Online Voter Registration.](#)

See section III-B-4  
*Registration at the polling place.*

[Minn. Stat. § 201.091, subd. 8.](#)

[Minn. Stat. § 201.091, subd. 8.](#)

[Minn. Stat. § 201.061, subd. 3.](#)

[Minn. Stat. § 201.061, subd. 3. Minn. R. 8200.5100.](#)

If the voter submits a signed statement requesting the withholding of the voter's name from the public information list for the safety of the voter or the voter's family, the secretary of state and county auditor must withhold that information upon receipt of this request.

## 2. Forms

At any time except during the 20 days immediately preceding any regularly scheduled election, eligible voters, or individuals who will be eligible voters at the time of the next election, may register to vote in the precinct where the voter maintains residence. To register, the voter must complete a registration application and submit it to the county auditor or to the secretary of state. State law also allows online voter registration on the secure website maintained by the Office of the Secretary of State.

Voters may register at the polls on the day of the election under certain circumstances.

## 3. Pre-registration

Throughout the year, the county auditor must have voter-registration applications available at the county auditor's office and at several locations in the county where voters may complete the applications and forward them to the county auditor's office. The county auditor can determine the number of public buildings that will have applications available.

State law requires that a designated individual provides assistance to any person who, because of disability, needs it in order to determine eligibility or to register. Assistance includes, but is not limited to, reading the registration form and instructions and filling out the registration form as directed by the eligible voter.

## 4. Registration at the polling place

State law requires election judges allow voters to register on election day. Judges may trade duties during the day, except that judges who register voters may not hand that same voter the ballot.

An individual, otherwise eligible to vote, may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration application, making an oath in the form prescribed by the secretary of state and providing proof of residence. An individual may prove residence for purposes of registering by presenting:

## RELEVANT LINKS:

[Minn. Stat. § 201.061, subd. 3\(4\).](#)  
[FAQ on Residential Facility Employee Vouching.](#)

[Minn. Stat. § 201.061, subd. 3\(d\).](#) [Minn. R. 8200.5100, subd. 2, item B.](#)

- A Minnesota driver's license, a learner's permit or a receipt for either that contains the voter's valid address in the precinct.
- A valid Minnesota identification card issued by the Minnesota Department of Public Safety or a receipt for the identification card that contains the voter's valid address in the precinct.
- Any document approved by the secretary of state as proper identification.
- A current, valid student identification card (if a school list has been prepared and certified to the county auditor), or a current student-fee statement that includes the student's valid address in the precinct and a picture-identification card.
- The oath of a voter registered to vote in the precinct, or an employee employed by and working in a residential facility in the precinct and vouching for a resident in the facility, signed in the presence of the election judge vouching that the voter or employee personally knows that the individual is a resident of the precinct. An individual who registers on Election Day may not sign an oath for another registrant.
- A tribal identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, address, signature, and picture of the individual.

In instances when identification shows a residence out of precinct, an eligible voter may prove residence by presenting an approved photo identification card, along with one of the additional proofs of residence listed in the statute. Approved photo identification cards include a driver's license or identification card issued by the State of Minnesota or any other state of the United States; U.S. passport; U.S. military identification card; student identification card issued by a Minnesota postsecondary educational institution; or a tribal identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, U.S. Department of the Interior, as long as those identification card contain the individual's name, photo, and signature. In these instances, the person must also provide one of the following:

- An original bill for telephone, television, or Internet provider services.
- An original bill for gas, electric, solid waste, water, or sewer services; credit card or banking services; or rent or mortgage, if the bill shows the voter's name and current address in the precinct, and the due date on the bill is within 30 days before or after election day. (A rent statement from a landlord that itemizes utility expenses and meets these requirements is also acceptable).
- A current student fee statement that contains the student's valid address in the precinct is also acceptable as proof of residence.

## RELEVANT LINKS:

[Minn. R. 8200.5100, subp. 2, item B.](#)

[Minn. R. 8200.5100.](#)

[Minn. Stat. § 201.061, subd. 3. \*ACLU of Minn. v. Kiffmeyer\*, 2004 U.S. Dist. \(D. Minn. Oct. 29, 2004\).](#)

[Minn. R. 8200.5100.](#)

[Minn. Stat. § 201.061, subd. 4.](#)

[In re Contest of General Election](#), 767 N.W.2d 453 (Minn. 2009).

[Minn. Stat. § 201.071, subd. 1.](#)

[Minn. Stat. § 204C.10.](#)

For bills delivered electronically, the voter may show a printed copy of the bill or a display of the bill on the voter's portable electronic device.

With respect to students, Minnesota Rules set forth additional ways a student may prove his or her residence that requires action on the part of the post-secondary educational institutions submitting residential housing lists to the county auditor for certification.

Tribal band members, regardless of whether they live on an Indian reservation, may prove residence by doing one of the following:

- Presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, U.S. Department of the Interior, that contains the name, address in precinct, signature, and picture of the individual.
- Presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, U.S. Department of the Interior, that contains the name, signature, and picture of the individual, and also presenting certain bills or a current student fee statement with current address.

Election judges must verify that a voter has not cast an absentee ballot prior to registering to vote and casting a ballot at the polling place on election day. Before registering an individual to vote at the polling place, the election judge must review any list of absentee election day registrants provided by the county auditor or municipal clerk to see if the person already has voted by absentee ballot. If the person's name appears on the list, the election judge must not allow the individual to register or vote in the polling place. In the alternative, before opening the accepted ballot return envelopes of absentee voters, election judges check each envelope against the precinct roster to be sure the voter has not voted in person or by another absentee ballot.

## 5. Election Day oath

Every person who registers on election day must sign the oath printed on the registration application. This oath is in addition to the one used as proof of residence.

## 6. Verification

Every voter must sign a polling-place roster or voter signature certificate intended to certify the voter's eligibility. The election judge may seek to verify the voter's qualifications at this point, and, if satisfied, give the voter a receipt that the voter then presents to the judge in charge of ballots or voting machines as proof of the right to vote.

## RELEVANT LINKS:

[Minn. Stat. ch. 203B. Secretary of State's City Election Guide . Absentee Voting Administration Guide.](#)

[Minn. Stat. §§ 203B.04-.15. Minn. Stat. §§ 203B.16-.27.](#)

[Minn. Stat. § 203B.05.](#)

[Minn. Stat. § 203B.05, subd.1.](#)

[Secretary of State's Absentee Voting Within the U.S.](#)

[Minn. Stat. § 203B.04.](#)

[Minn. Stat. § 203B.04, subd. 6. Minn. Stat. § 203B.02, subd. 1. Minn. Stat. § 5B.06.](#)

## C. Absentee voting

To make the opportunity to vote more readily available, Minnesota has expanded its system of absentee voting to allow people to vote even if they cannot or do not want to physically go to the polling place on Election Day. The law allows absentee voting in all elections.

There are two separate absentee voting procedures. One procedure allows people who live in Minnesota to vote absentee if they cannot make it to the polls on Election Day or if they simply want to vote early. The other procedure allows military and overseas voters to vote, pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).

The county auditor and the city clerk may share responsibility of administering absentee-vote law. The county auditor may designate full-time city clerks to distribute and process applications and ballots in all elections, or the clerk can give the auditor notice of the clerk's intent to administer the law. However, the county auditor always administers absentee voting for military and overseas (UOCAVA) voters.

A clerk may only administer absentee balloting if the clerk has the technical capacity to access the statewide voter registration system (SVRS) in the secure manner prescribed by the secretary of state.

Before administering absentee balloting, the clerk must receive training approved by the secretary of state on the use of the SVRS. The clerk cannot use the SVRS until he or she has received the required training. The county auditor must notify the secretary of state of any municipal clerk who will be administering absentee ballots.

### 1. Qualifications

Any eligible voter may vote by absentee ballot.

### 2. Procedures

The following sections outline essential steps in distributing, collecting, and counting absentee ballots.

#### a. Application

Any individual wishing to vote by absentee ballot must apply to the county auditor or to a designated city clerk at least one day before the election, except health-care patients in certain limited circumstances. In a city election, voters must apply to the city clerk.

## RELEVANT LINKS:

[Minn. Stat. § 203B.04, subd. 1.](#)

[Minn. Stat. § 203B.04, subd. 1.](#)

[Minn. Stat. § 203B.06, subd. 3 \(b\).](#)

[Minn. R. 8210.2600.](#)

[Minn. Stat. § 203B.06, subd. 3\(c\).](#)

[Minn. Stat. § 203B.07, subd. 1.](#)

[Minn. Stat. § 203B.04, subds. 1\(b\), 5. Minn. R. 8210.0200, subp. 4.](#)

Generally, a voter must make separate applications for each election, including the primary and general election. Under certain circumstances, such as Safe at Home participants, an eligible voter may apply for status as a permanent absentee voter.

An application for an absentee ballot must be approved if received in a timely manner; is signed and dated by the applicant; and contains the applicant's name and residence and mailing address, date of birth, along with at least one of the following:

- The applicant's Minnesota driver's license number.
- The applicant's Minnesota state identification card number.
- The last four digits of the applicant's Social Security number.
- A statement that the applicant does not have any of these numbers.

The application must include an oath attesting to the accuracy of the information contained, that the person is applying on his or her own behalf, and that he or she is signing the form under penalty of perjury.

If a voter applies for an absentee ballot before the absentee ballots become available, the auditor or clerk must keep the voter's name on file. As soon as the clerk or auditor receives the ballots, he or she must send materials to each applicant. The voter may receive only one set of ballots for each election, except in limited circumstances such as a lost or spoiled ballot.

If a voter's application does not indicate which election he or she intends to vote in, the clerk must mail or deliver only the ballots for the next election occurring after receipt of the application. The clerk should mail, ship, or deliver only one set of ballots to an applicant for any election—except in those instances when an absentee ballot envelope gets rejected before an election (discussed below). The county auditor or clerk must prepare, print, and transmit a return envelope, a ballot envelope, and a copy of the directions for casting an absent ballot to each applicant. The auditor or clerk must provide first class postage for the return envelope.

An eligible voter who expects to permanently be unable to go to the polling place on Election Day may apply to the county auditor or city clerk to automatically receive an absentee ballot application before each election. The voter's registration record would indicate the status of permanent absentee voter. A voter's permanent absentee status ends and automatic ballot application delivery terminates upon: (1) receipt of the voter's written request; (2) the voter's death; (3) return of an absentee ballot as undeliverable; or (4) a change in the voter's status to "challenged" or "inactive" in the statewide voter registration system.

## RELEVANT LINKS:

[Minn. Stat. § 203B.04, subds. 2, 3.](#)  
[Minn. Stat. § 203B.11.](#)

[Minn. Stat. § 203B.07, subd. 3.](#)

[Minn. Stat. § 203B.065.](#)

[Minn. Stat. § 203B.081.](#)

[Minn. Stat. § 203B.081.](#)

[Minn. Stat. § 203B.08.](#)

An eligible voter who enters a hospital or health-care facility in their city of residence on the day before an election may request an absentee ballot by phone from the clerk before 5 p.m. on that day or from the designated judges delivering ballots. The clerk must designate two election judges of different political parties to deliver ballots to hospitals and health care facilities. Both must be present when the voter fills out the ballot and may assist the voter as necessary. The judges then return the marked ballots to the clerk.

A person filling out an absentee ballot needs to have it witnessed either by a registered Minnesota voter, a notary public or other person authorized to administer oaths. The witness must sign the signature envelope.

When the clerk accepts an absentee application for a state primary or state general election, the clerk must record in the SVRS the voter's name, date of birth, address of residence, mailing address, Minnesota driver's license or state ID number, or the last four digits of the voter's Social Security number (if provided). Once the ballot has been transmitted to the voter, the date and method of transmission must also be recorded in the SVRS. After the voter returns the ballot, the clerk must record in the SVRS the return of the ballot. Once the ballot board accepts or rejects the ballot, that auditor or clerk also must record the acceptance or rejection in the SVRS and, if rejected, the reasons for the rejection.

### **b. Absentee voting in person**

An eligible voter may cast his or her absentee ballot in person in the office of the county auditor and at any other polling place designated by the county auditor during the 46 days before the election. The county auditor must also make available at least one electronic ballot marker in each polling place that has implemented a voting system accessible for individuals with disabilities.

In the alternative, the county auditor may make available a ballot counter and ballot box for use by the voters during the seven days before the election. Upon providing this ballot counter and ballot box, a voter has the right to either vote using the mailing or designation of agent process provided in section 203B.08, subdivision 1, or vote using the seven-day pre-election ballot counter and ballot box. If a voter chooses the latter, the voter must state the voter's name, address, and date of birth to the county auditor or municipal clerk. The voter shall sign a voter's certificate, which must include the voter's name, identification number, and the required certification. After signing the voter's certificate, the voter shall be issued a ballot and immediately retire to a voting station or other designated location in the polling place to mark the ballot. The ballot must not be taken from the polling place.

## RELEVANT LINKS:

[Minn. Stat. § 203B.06, subd. 3.](#)  
[Minn. Stat. § 203B.11, subd. 4.](#)

[Minn. Stat. § 203B.06, subds. 6, 7.](#)

[Minn. Stat. § 203B.06, subd. 5.](#)

[Minn. R. 8210.2600.](#)

[Minn. R. 8210.0400.](#)

If the voter spoils the ballot, the voter may return it to the election official in exchange for a new ballot. After completing the ballot, the voter shall deposit the ballot into the ballot box, and the election official must immediately record that the voter has voted. The auditor, clerk, deputy auditor, or deputy clerk may perform the election duties associated with this alternative seven-day voting process.

### **c. Distribution**

Unless the applicant appears in person, the clerk or auditor must mail the absentee ballot. However, the clerk or auditor may deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots to a voter who would have difficulty getting to the polls because of incapacitating health reasons, who is disabled, who is a patient in a health-care facility, a resident of a facility providing assisted-living services, a participant in a residential program for adults, or a resident of a shelter for battered women. If an applicant is not registered to vote, the clerk or auditor must include a voter-registration application with the absentee-ballot application being sent to the applicant.

For ballots mailed outside the continental United States, the clerk or auditor must send them by air mail. If the federal government or any of its branches, departments, agencies, or other instrumentalities makes any special service available for the mailing of absentee voting materials, the county auditor or municipal clerk may use the service.

The county auditor, city clerk, or deputy must date applications for absentee ballots the date the auditor or clerk receives the application. They also must initial the application before mailing or delivering the ballots to applicants. The clerk or auditor must preserve all applications for 22 months.

The city clerk must promptly provide a replacement absentee ballot to a voter who requests one because the voter's ballot was lost, spoiled, or never received. The clerk must record the following information on the voter's absentee ballot application: the date of the voter's request, the date that the clerk issued the replacement ballot to the voter, and the reason that the voter requested a replacement. If a voter returns a spoiled ballot to the election official, the auditor or clerk must put the returned ballot in a spoiled ballot envelope.

### **d. Materials**

The return address on the envelope that contains the absentee balloting materials must include a telephone number and an electronic mail address voters can call or contact for help with absentee voting.

## RELEVANT LINKS:

[Minn. Stat. § 204B.35, subd. 4. Secretary of State's: Example Ballots.](#)

[Minn. Stat. § 203B.07, subd. 2. Minn. R. 8210.0710-.0800. Minn. Stat. § 203B.07, subd.3. Minn. Stat. § 203B.08.](#)

[Minn. Stat. § 203B.065.](#)

[Minn. Stat. § 203B.07, subd. 2. Minn. R. 8210.0300.](#)

For those voters who receive their ballots electronically, the cover letter to the voters must contain the telephone number and email address for voters to call or contact to get help with absentee voting.

The auditor or clerk must send the following materials to each absentee voter:

### **(1) Ballots**

At least 46 days before an election, the clerk or auditor must send one copy of each ballot for each absentee ballot application received. Public officers responsible for preparing, printing, and distributing ballots must deliver a sufficient number of the printed ballots to the auditor and the city clerk for absentee voters. When a city election is held in combination with a state or federal election, the clerk must give the county auditor a sufficient number of city ballots so the auditor can comply with this same requirement.

### **(2) Return envelope**

The return envelope must be large enough to contain the ballot envelope and a folded registration application. The auditor or clerk must affix first class postage to the return envelope and address the return envelope to allow mailing to the appropriate entity. State law provides details on the design and appearance of the return envelope. The back of the envelope must include a “voter’s certificate” and a sworn statement that the voter must sign, indicating that the voter meets all legal requirements to vote by absentee ballot. The voter’s certificate must also contain a statement that must be signed by a witness registered to vote in Minnesota, by a notary public or by other individual authorized to administer oaths.

The labels provided for envelopes used for transmitting an absentee ballot to and from an applicant for a state primary or state general election must include a bar code generated by the SVRS. This barcode helps in meeting the recording requirements. The clerk entering information into the SVRS must include the information provided on the bar code label whenever entering information.

### **(3) Ballot envelope**

A ballot envelope also must be included. Ballots are placed in the ballot envelope, which is placed inside the return envelope. The envelope must be sized so that it fits inside the absentee ballot return envelope.

State law describes how the envelope should be designed.

## RELEVANT LINKS:

[Minn. R. 8210.0200-.0800.](#)  
[Minn. Stat. § 203B.07, subd. 1.](#)

[Minn. Stat. § 203B.06, subd. 4.](#)  
[Minn. Stat. § 203B.07, subd. 1.](#)  
[Secretary of State's: Applications for Absentee Ballot.](#)

[Minn. Stat. § 203B.08, subd. 1.](#)  
[Minn. R. 8210.2100-2400.](#)

[Minn. Stat. § 203B.08, subd. 3.](#)

[Minn. Stat. § 203B.08, subd. 3.](#)

[Minn. Stat. § 203B.121.](#)

### **(4) Directions to voters**

Instructions accompanying the ballots describe procedures for casting an absentee ballot. The auditor or the clerk is responsible for printing and furnishing these directions. If a person requests directions in Braille or on audio file, the auditor or the clerk must provide them in the requested form.

The secretary of state has copies available for clerks and auditors. The secretary of state establishes rules for the form and content of the return envelope, the ballot envelope, and the instructions for casting an absentee ballot.

### **(5) Registration application**

If the voter is not registered, the clerk also must send the voter a registration application and the appropriate instructions.

### **e. Return of ballots**

Voters may return absentee ballots by mail, in person, or by agent delivery to the auditor or clerk of the precinct where the voter has eligibility to vote.

Clerks or auditors must store the absentee-ballot-return envelopes they receive before election day in a secure place after recording receipt of each envelope, the name of the voter, address, precinct number, agent (if any), and date received. Within five days after receiving the ballot, the city clerk must deliver all ballots received to the ballot board, except that if received within the 14 days immediately before an election, the clerk must deliver the ballots received within three days.

The county auditor or municipal clerk shall mark, as received late, ballots received on Election Day either (1) after 3 p.m., if delivered in person; or (2) after the last mail delivery, if delivered by another method. These ballots should not be delivered to the ballot board.

### **f. Counting absentee ballots**

If the city council has the responsibility to accept and reject absentee ballots, the council must establish a ballot board by adopting an ordinance or resolution. The board must consist of a sufficient number of election judges trained in handling absentee ballots.

The city must pay reasonable compensation to each member of the board.

**RELEVANT LINKS:**

[Minn. Stat. § 203B.121.](#)  
[Minn. R. 8210.2450.](#)

[Minn. Stat. § 203B.121.](#)  
[Minn. R. 8210.2600, subp. 2.](#)

[Minn. Stat. § 203B.121.](#)

[Minn. Stat. § 203B.121.](#)

[Minn. Stat. § 203B.121.](#)

[Minn. Stat. § 203B.121.](#)

The members of the ballot board must take possession of all return envelopes delivered to them. After receiving the envelopes, two or more members of the board must examine each return envelope and mark it as accepted or rejected. The law specifies the conditions for accepting or rejecting an envelope.

If the board rejects an envelope at least five days before the election, the official in charge of the board must provide the voter with a replacement absentee ballot and return envelope, along with an explanation for the rejection. The election official must record the following information on the voter's absentee ballot application: the date the voter's ballot was rejected, the date a replacement ballot was issued to the voter, and the reason for the rejection of the previous ballot. Rejected absentee ballots must be kept in a separate sealed container.

If the envelope is rejected within five days of the election, the official in charge of the board must attempt to contact the voter by phone or e-mail to notify the voter of the rejection. The official must document these attempts. Following the election, the board must mail any voter written notice of their ballot's rejection.

In the alternative, upon acceptance of an absentee ballot, the city clerk must immediately record the acceptance. In a state primary, general, or special election for state or federal office, the clerk also must record this information in the statewide voter registration system. In addition, the roster must be marked and a supplemental report of absentee voters who submitted a voter registration application with their ballot must be created.

After the close of business on the seventh day before the election, the ballot board may open the ballots from the accepted return envelopes, duplicate as needed, initial the ballots (all the members of the board initial), and deposit the ballots in the appropriate ballot box. On each day where absentee ballots are inserted into a ballot box, the process described by law must be followed for removing and storing the ballots.

After the polls close on election day, two members of the ballot board must count the ballots, tabulating the vote in a manner that indicates each vote and the total votes cast for each candidate or question. In state primary and general elections, the results must indicate the total votes cast for each candidate or question in each precinct and the vote totals tabulated for each precinct. In state primary and general elections, these vote totals must be added to the vote totals on the summary statements of the returns for the appropriate precinct. In other elections, these vote totals may be added to the vote totals on the summary statement of returns for the appropriate precinct or may be reported as a separate total.

## RELEVANT LINKS:

[Minn. Stat. § 203B.121.](#)

[Minn. Stat. § 203B.03.](#)

[Minn. Stat. § 203B.02.](#) [Minn. Stat. §§ 203B.16-.27.](#)  
Secretary of State's: [Military and Overseas Voter Services.](#)  
Secretary of State's: [Absentee Voting for Military Personnel and Citizens Outside the U.S.](#)

[Minn. Stat. § 203B.16, subd. 2.](#)

[Minn. Stat. § 203B.19.](#)

In addition, if not already done, the members of the ballot board must verify as soon as possible (but no later than 24 hours after the polls close) that voters whose absentee ballots arrived after the rosters were marked or supplemental reports were generated and whose ballots were accepted did not also vote in person on election day. If a person also voted on election day, their absentee ballot must be rejected.

The ballot board must open, duplicate (if necessary), and count all other accepted ballots. The board then must incorporate the vote totals from these ballots into the totals with the other absentee ballots.

### 3. Penalties

Any person who willfully attempts to cast an illegal ballot, helps another to cast such a ballot, exhibits a marked ballot to any other person, or otherwise acts against the terms of the absentee voters' law, commits a felony under state law. The obligation to comply with the law lies with the voter. Failure to follow the directions likely will cause the judges to reject the ballot.

### 4. Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)

Minnesota law has optional requirements for voters indefinitely residing outside the United States and for the military. These state laws seemingly implement the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). These requirements apply to:

- Members of the armed forces, whether serving inside or outside the boundaries of the United States.
- Individuals connected in any military or civilian capacity with the armed forces.
- All employees of the U.S. government serving outside the United States.
- All residents of Minnesota who are indefinitely residing outside the territorial limits of the United States.
- All spouses and dependents of individuals in the above four categories, if they reside with them.

The following list highlights the major differences between this particular law and the general voter registration law:

- Individuals listed above do not need to comply with the voter-registration law in order to qualify as voters.

## RELEVANT LINKS:

[Minn. Stat. § 203B.17, subd. 1.](#)

[Minn. Stat. § 203B.17, subd. 1.](#)

[Minn. Stat. § 203B.21, subd. 2.](#)

[Minn. Stat. § 203B.24, subd. 1.](#)

[Minn. Stat. § 203B.22. Minn. Stat. § 203B.225.](#)

[Minn. R. 8210.0800.](#)

[Minn. Const. art. VII, § 6. \*Opatz v. City of St. Cloud\*, 196 N.W.2d 298 \(Minn. 1972\). \*Meyers v. Roberts\*, 246 N.W.2d 186 \(Minn. 1976\).](#)

[Minn. Stat. § 204B.04.](#)

[Minn. Stat. § 103C.315, subd. 6.](#)

[Handbook, Chapter 6.](#)  
See also LMC information memo, *Official Conflict of Interest*.

- An application for absentee ballots is valid for any primary, special primary, general election, or special election from the time the application is received through the end of that calendar year or through the next regularly scheduled state general election, whichever is later.
- Either the voter or the voter's parent, spouse, brother, sister or child over the age of 18 may request ballots from the office of the county auditor or the city clerk for a city election.
- The voter must return the ballots by mail in the same manner as other absentee ballots.
- The election judges should handle these ballots in the same manner as ballots from other absent and disabled voters, except that voters under this law need not be registered. Election judges must keep a separate record of the number of ballots they receive from people voting under these provisions.
- Ballots may be electronically transmitted. Return postage is not required when ballots are transmitted electronically.
- Ballots and envelopes include different or additional information.

## IV. Candidates for city offices

Generally, a candidate for elective office in a city or town must meet all of the following criteria:

- A qualified voter in the state of Minnesota.
- A U.S. citizen.
- At least 21 years of age on the date he or she would take office.
- A resident of the city for 30 days before the election.

A candidate may file for only one office in any given election. However, in cities with populations of less than 2,500 outside Anoka, Hennepin, Ramsey, and Washington counties, candidates for city office may also file for a soil-and-water-conservation district office.

Even so, an individual could find themselves elected to more than one office by write-in votes. If this happens and if the offices are incompatible, the candidate must choose between the two offices. Individuals already holding one elective office may, without resigning, file for a second office (even when incompatible with the first). Election and qualification to the second position automatically cause a vacancy in the first position, unless the two jobs are compatible.

## RELEVANT LINKS:

[Minn. Stat. § 410.21.](#)

[Minn. Stat. § 205.13, subds. 1, 2.](#)

[Minn. Stat. § 205.13, subd. 1a.](#)

[Minn. Stat. § 205.13, subds. 1, 2.](#)

[Minn. Stat. § 205.13, subd. 1a.](#)

[Smith v. Kiffmeyer](#), 721 N.W.2d 912 (Minn. 2006).

## A. Nomination

The following provisions apply to statutory cities. While many of these provisions also apply to home rule charter cities whose charters are silent on procedures, a home rule charter city should check its charter on this subject.

Any eligible person's name may appear on the official ballot as a candidate if the person files an affidavit of candidacy and pays the filing fee. Under certain circumstances, a person's name may be placed on the ballot if an application signed by not less than five voters is submitted on behalf of that person. A candidate for municipal office who will be absent from the state during the filing period may submit a properly executed affidavit of candidacy, the appropriate filing fee, and any necessary petitions in person to the filing officer. The candidate shall state in writing the reason for being unable to submit the affidavit during the filing period. The affidavit, filing fee, and petitions must be submitted to the filing officer during the seven days immediately preceding the candidate's absence from the state. In cities of the first class, and in any city where the city charter permits use of nominating petitions, a nominating petition for a candidate who will be absent from the state during the filing period may be signed during the 14 days immediately preceding the date when the affidavit of candidacy is filed.

In cities that have primaries, the person also must qualify in that primary to obtain a place on the city general-election ballot.

In cities with a primary, an affidavit of candidacy must be filed no more than 84 days before nor less than 70 days before the city primary. In cities without a primary, an affidavit of candidacy must be filed no more than 98 days before nor less than 84 days before the municipal general election held in November of any year. At least two weeks before the first date to file affidavits of candidacy, the clerk must publish a notice stating the first and last days to file. The clerk also must give at least 10 days posted notice before the first day to file affidavits of candidacy. This notice must separately list any office for which a candidate may file an affidavit of candidacy to fill an unexpired portion of a term when a special election is being held to fill that vacancy.

The municipal clerk's office must be open for filing from 1 p.m. to 5 p.m. on the last day of the filing period.

If a candidate files an affidavit of candidacy by mail, the affidavit must arrive by the last day of filing, not just postmarked by the last day of filing. In addition, the affidavit also must be filed with the appropriate election official. Therefore, the date the application arrives at the proper official's office represents the date election officials go by to determine if the affidavit arrived by the last day of filing.

## RELEVANT LINKS:

[Minn. Stat. § 205.13, subd. 3.](#)  
[Minn. Stat. § 205.13, subd. 1.](#)  
[Secretary of State's: Affidavit of Candidacy.](#)  
[Secretary of State's Address of Residence Form.](#)  
[Secretary of State's: Filing Fees Chart.](#)

[Minn. Stat. § 204B.06.](#)

[Minn. Stat. § 103C.315, subd. 6.](#)

[Minn. Stat. § 204B.06, subd. 1.](#)

[Minn. Stat. § 204B.06, subd. 1.](#)

[Minn. Stat. § 204B.35, subd. 2.](#)  
[Minn. Stat. § 204B.38.](#)  
[Minn. Stat. § 204B.10, subd. 5.](#)

Depositing an affidavit of candidacy in the mail within the filing period does not constitute filing within the meaning of the statute when it does not reach the proper office until after the deadline has passed.

### 1. Affidavit of candidacy

Any person eligible to hold elective office in a statutory city may file an affidavit of candidacy and pay the required fee at any time during the two-week period set aside for this purpose. Candidates for a special election to fill a vacancy must file an affidavit of candidacy for the specific office to serve the unexpired portion of the term. The filing fee differs based upon the city's population and is set by statute, unless a city's ordinance or charter provides a different fee for that city's candidates. When an ordinance sets the fee, it must not exceed limits for filing fees set in statute.

The affidavit must state the following information:

- The residence of the candidate.
- A statement that the candidate is eligible to vote.
- The office that the candidate seeks.
- A statement that the candidate has not filed for any other office at the same election (except for soil-and-water-conservation district office in certain counties).
- A statement that the candidate is, or will be, at least 21 years old upon assuming office.
- A statement that the candidate will have maintained residence in the city for 30 days before the general election.
- A statement that the candidate's name as it appears on the affidavit for ballot designation represents the candidate's true name, or the name the candidate commonly and generally uses in the community.
- The provision of a telephone number where the candidate can be contacted and the candidate address of residence or the candidate's campaign contact address. (The form must allow the candidate to request that the address be classified as private data, if eligible. In this case, the address must be listed on a separate form attached to the affidavit).
- A statement that the candidate meets any other qualifications for that office prescribed by law.

The official in charge of preparing ballots shall prepare those ballots in a manner that enables the voters to understand the identity and number of candidates for each office and to designate their choices easily and accurately. The name of a candidate shall not appear on a ballot in any way that gives the candidate an advantage over an opponent, including words descriptive of the candidate's occupation, qualifications, principles, or opinions, except as otherwise provided by law.

## RELEVANT LINKS:

[Minn. Stat. § 204B.11, subd. 2\(d\), \*Reiter v. Kiffmeyer\*, 721 N.W.2d 908 \(Minn. 2006\). See Secretary of State's Petitions.](#)

[Minn. Stat. § 205.13, subd. 1.](#)

[Minn. Stat. § 205.13, subd. 6. Secretary of State's Withdrawal.](#)

[Minn. Stat. § 205.065, subd. 1.](#)

However, when similarity of both the first and last names of two or more candidates for the same office at the same election may cause confusion, the election official may include up to three additional words on the ballot after each surname to indicate the candidate's occupation, office, residence or any combination of them if the candidate furnishes the identifying words to the filing officer by the last day for withdrawal of candidacy. If the filing officer determines that the candidate's name as written on the affidavit in any way could give one candidate an advantage over another, the filing officer shall immediately notify the candidate and shall certify for the ballot the candidate's true name instead of the name as written on the affidavit.

A candidate for city office may file a petition in place of a filing fee at the time of filing an affidavit of candidacy. The number of signatures required must equal either the lesser of 500 signatures of individuals eligible to vote for the candidate or five percent of the number of votes cast in the election district at the preceding city general election when that office was on the ballot. The clerk must make sample petition forms available on request. The Minnesota Supreme Court has held that the signatures on a petition in place of the filing fee do not have to be placed on the petition during the filing period, but rather, may also be placed on the petition before the filing period opens.

## 2. Candidacy by application of voters

Any five voters may file an application of candidacy for city election on behalf of any qualified voter they want as a candidate. Before filing it, the voters must give a copy of the petition to the proposed candidate.

The petition must include proof of this in the form of either the candidate's endorsement on the petition, or an affidavit stating that the candidate received a copy of the application. The filing fee is due when the voters file the petition.

## 3. Withdrawal of candidacy

Candidates for city-elective office may withdraw by filing an affidavit of withdrawal with the city clerk no later than 5 p.m., two days after the last day for filing affidavits of candidacy. Withdrawal is not possible after that time. Withdrawal does not entitle the candidate to a refund of the filing fee.

## B. City primaries

Any city may establish a city primary if the council adopts an ordinance or resolution by April 15 in the year when a municipal general election is held. The city clerk must notify the secretary of state and the county auditor within 30 days after the adoption of the resolution or ordinance.

## RELEVANT LINKS:

[Minn. Stat. § 205.065, subds. 1, 2.](#)

[Minn. Stat. § 205.065, subd. 4.](#)

[Minn. Stat. § 205.065, subd. 5.](#)

Secretary of State's: [City Clerk Election Guide.](#)

Once the city adopts a primary, it stays in effect for all ensuing elections until revoked by the council. The city must hold the primary on the second Tuesday in August of the year in which the city general election is held.

The clerk shall place upon the primary ballot, without partisan designation, the names of individuals whose candidacies have been filed and for whom the proper filing fee has been paid. As in the case of nonpartisan offices, a primary is not necessary when not more than twice the number of people to be elected file for office have filed. In this case, the names of the candidates go directly on the general election ballot. Names go on the ballot without partisan designation. When more than one councilmember is to be elected for full terms at the same election, the candidates' names shall be placed under one office on the ballot with the number to be elected to the office specified directly underneath the title and identification of the office.

### **1. Canvassing after primaries**

If a primary is held only within a city, the canvass (a careful inspection of the ballots by the city council) may be conducted on either the second or the third day after the primary.

However, if a city primary is held in conjunction with the state primary, the canvass must be conducted on the third day after the primary—except a canvass may be conducted on the second day after the primary if the county auditor of each county in which the city lies agrees to administratively review the municipality's primary voting statistics for accuracy and completeness within a time that permits the canvass to be conducted on that day.

The city council must canvass the returns. The two candidates for each office who receive the highest number of votes, or a number of candidates equal to twice the number of individuals to be elected to the office, who receive the highest number of votes, shall represent the nominees for the office named.

### **2. Certify names for ballots**

The council shall certify the candidates' names to the city clerk, who must put the names on the city general election ballot without partisan designation and without payment of an additional fee.

## **V. Election procedures**

The statutes describe procedures for conducting elections in detail. Because a mistake at any point in the procedures may result in contested elections, election officials must closely follow the statutory procedures.

## RELEVANT LINKS:

[Minn. Stat. § 204C.03, subd. 1.](#)  
[Minn. Stat. § 202A.19, subd. 1.](#)

[Minn. Stat. § 202A.19, subd. 4.](#)  
[Minn. Stat. § 202A.192.](#)  
[Minn. Stat. § 204B.16, subd. 6.](#)

[Minn. Stat. § 200.02, subd. 11.](#)  
[Minn. Stat. § 204B.14, subd. 1.](#)

[Minn. Stat. § 204B.14, subds. 1, 3.](#)

[Minn. Stat. § 204B.14, subds. 1, 3.](#) [Minn. R. ch. 8255.](#)  
See Section III - B. *Wards.*

[Minn. Stat. § 204B.14, subd. 2.](#) [Minn. Stat. § 200.02, subd. 24.](#)

This chapter provides only a basic overview of the procedures. The secretary of state's most current City Clerk Election Guide includes more specific details.

City councils and other local governing bodies cannot hold any meetings between 6 p.m. and 8 p.m., on the day of any election within their boundaries, and they cannot hold meetings after 6 p.m., on the day of a state-precinct caucus.

City councils and other local governing bodies, such as school districts, must make their public facilities available for holding precinct caucuses and legislative district or county conventions. These facilities (including parking) must be available for city, county, state, and federal elections as well. A local government may charge no more than the lowest amount it charges any other group.

A similar requirement for public bodies to make facilities available for polling places exists as well.

### A. Precincts

A precinct represents a geographical area, the boundaries of which are established for election purposes in accordance with state statute. The city council must establish the boundaries of the election precincts within the city. State statute sets the criteria and limitations regarding election precincts.

Precincts represent organized voting areas with designated polling places where voters can cast their ballots. Precincts may vary in size and population and generally do not need to follow redistricting standards. The boundaries may be changed, but must meet certain requirements outlined in the statutes.

Changes in precinct boundaries generally cannot occur during times when legislative redistricting is happening, with a few limited exceptions.

This restriction generally prohibits cities from changing their precinct boundaries from Jan. 1 in any year ending in 0 until the time that the Legislature has been redistricted in a year ending in 1 or 2. The required dates by when precinct-boundary changes must occur are discussed later in this section. Cities with ward systems also should read the discussion under the part of this document that deals with wards.

Each city and town must constitute at least one election precinct. A city council may divide the city into several precincts.

## RELEVANT LINKS:

Secretary of State's: [City Clerk Election Guide](#).

[Minn. Stat. § 204B.14, subds. 4, 5.](#)

[Minn. Stat. § 204B.14, subds. 3, 4.](#)  
Minnesota Secretary of State: [Redistricting Guide](#).

In certain situations, the law allows creation of a single combined polling place for separate precincts including when, up to four contiguous municipalities outside the metropolitan area each approve, by passing a resolution or, to combine (no later than November 1 if a presidential nomination primary is scheduled to occur in the following year or May 1 of any other year).

Precincts may have any number of individuals. Logically, however, no election precinct should contain so many voters that the task of managing the polling place and counting the ballots becomes too difficult. A precinct should not become so large that the polling place sits a great distance away from a number of voters. The secretary of state suggests that precincts larger than 2,000 to 2,500 people become difficult to manage. No precinct should lie in more than one legislative or congressional district.

To divide a statutory city or a charter city (if its charter is silent on this issue) into more than one precinct or to change the boundaries of existing precincts, the city must follow certain procedures.

### 1. Boundaries

Cities generally have the power to change their precinct boundaries. Adoption of any change in the boundary of an election precinct must occur at least 10 weeks before the date of the next election and, for the state primary and general election or presidential nomination primary, no later than Dec. 1 in the year prior to the year of the state general election. The precinct boundary change shall not take effect until posting of notice of the change has hung in the office of the municipal clerk or county auditor for at least 56 days. The clerk must immediately notify the secretary of state of the change and file a corrected base map. When the Legislature has been redistricted, a city must make changes in precinct boundaries within 60 days following legislative redistricting or at least 19 weeks before the state primary election in a year ending in the number 2, whichever comes first.

At least 30 days after any change in a precinct becomes effective, the clerk must file a map showing the correct boundaries of the precincts with the county auditor and the secretary of state and must keep a copy of the map on file in the office of the clerk for public inspection. In the case of an annexation, the corrected map must be filed the latter of: 1) 30 days after the approval of the annexation order, or 2) the effective date of the annexation order. The clerk also must furnish copies of the appropriate precinct map to election judges at each polling place.

## RELEVANT LINKS:

[Minn. Stat. § 204B.14, subd. 4a. Minn. Stat. ch. 414.](#)

[Minn. Stat. § 204B.14, subds. 3, 4.](#)

[Minn. Stat. § 204B.135, subd. 1.](#)

[Minn. Stat. § 204B.146, subd. 3.](#)

[Minn. Stat. § 204B.16, subds. 1, 3.](#)

[Minn. Stat. § 204B.16, subd. 1a.](#)

If a change in the boundary of an election precinct has occurred as a result of a municipal boundary adjustment that takes effective more than 21 days before a regularly scheduled election, the change takes effect at the scheduled election. If a change in the boundary of an election precinct has occurred as a result of a municipal boundary adjustment that is effective less than 21 days before a regularly scheduled election, the change takes effect the day after the scheduled election.

Some additional criteria apply to precincts. No precinct can sit in more than one legislative district. No boundary adjustments may occur from Jan. 1 in a year ending in 0 to the time when the Legislature has been redistricted in a year ending in 1 or 2, except under the following circumstances:

- If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.
- A city may establish new precincts if they lie entirely within the outer boundaries of the old precinct. The names of the new precincts must include the name of the former precinct. If the city annexes the area in the same county, it may include the annexed area in the precinct immediately adjacent to it.
- Precinct boundaries in a city of the first class (having over 100,000 inhabitants) electing councilmembers by wards may be re-established within four weeks of the adoption of ward boundaries in a year ending in 1.

Under certain circumstances, the secretary of state may order correction of an election district's boundaries. This generally may occur if a city's precinct has the same boundaries as a congressional, legislative, or county commissioner district and the boundaries of these districts have changed.

If the secretary of state orders a correction, the secretary of state must give notice to the city clerk and the city clerk must send a non-forwardable notice to every household that contains a registered voter affected by the boundary change. The clerk must send the notice at least 25 days before the next election and must state the location of the polling place.

## 2. Polling places

The city council, by ordinance or resolution, designates polling places for each precinct. The council should do this at least 90 days before the election. If the council has not designated new polling places by election time, the ultimate location of the polling places must be as near as possible to those used for the previous election. Once designated, the polling places remain the same for all future elections until the council, by ordinance or resolution, changes them.

## RELEVANT LINKS:

[Minn. Stat. § 204B.16, subd. 1.](#)

[Minn. Stat. § 204B.16, subd. 5.](#) [Minn. Stat. § 204B.14, subd. 2\(2-3\).](#) [Secretary of State's: Polling Place Accessibility.](#) [Secretary of State's: Polling Place Accessibility Diagnostic Tool.](#)

[Minn. Stat. 204B.14, subd. 2](#)

[Minn. Stat. 204B.14, subd. 2](#)

[Minn. Stat. 204B.175.](#)

Generally, no polling-place changes may occur during the period between the state primary and the state general election, other than the designation of a new polling place when a former polling place has become unavailable for use. Each registered voter affected by the change must be notified by first class, non-forwardable mailing at least 25 days before the next election.

If any precinct does not have a suitable location for a polling place and the city does not have a central polling place, the council may select a site located within one mile of the precinct's boundaries.

Polling places must be accessible to elderly individuals and individuals with disabilities. The city council must designate only those places that are accessible, unless no available space within the precinct is accessible or can be made accessible.

City councils may designate a single, accessible, combined polling place (no later than Nov. 1 if a presidential nomination primary is scheduled to occur in the following year or, in the alternative, May 1 of any other year) for (1) any city of the third or fourth class (under 20,000 population), or any city having territory in more than one county (in which all the voters of the city or town shall cast their ballots); (2) for contiguous precincts in the same municipality; (3) for up to four contiguous municipalities located entirely outside the metropolitan area but sit in the same county; or (4) for noncontiguous precincts located in one or more counties. The city may appoint a single board of election judges, but must have separate ballot boxes for each precinct.

The clerk must file a copy of the ordinance or resolution establishing a combined polling place with the county auditor within 30 days after approval by the council. Each governing body of each participating municipality must approve that combined polling place. A city withdrawing from participation in a combined polling place must do so by filing a resolution of withdrawal with the county auditor no later than Oct. 1 if a presidential nomination primary is scheduled to occur in the following year or April 1 of any other year. The secretary of state shall provide a separate polling place roster for each precinct served by the combined polling place, except that in a precinct that uses electronic rosters, the secretary of state shall provide separate data files for each precinct.

When an emergency occurs after the deadline to designate a polling place, but before the polls close on Election Day, a new polling place may be designated for that election. For purposes of this section, emergency includes any situation that prevents the safe, secure, and full operation of a polling place.

## RELEVANT LINKS:

[Minn. Stat. § 204B.16, subds. 5, 7. Minn. Stat. § 204B.18, subd. 1. Minn. Stat. § 204C.01, subd. 1.](#)

[Minn. Stat. § 204B.18, subd. 1. Minn. Stat. § 204B.18, subd. 1.](#)

[Minn. Stat. § 204B.18, subd. 2.](#)

[Minn. Stat. § 204C.08, subd. 1a.](#)

[Minn. Stat. § 204C.08, subd. 1b. Secretary of State's Office: Minnesota Voter's Bill of Rights.](#)

[Minn. Stat. § 204B.16, subd. 5\(f\). Minn. Stat. § 204B.18, subd. 1. See Section VIII for more information about the \*Help America Vote Act\*.](#)

If a local election official determines that an emergency has occurred or is imminent, the local election official must procure a polling place situated as near the designated polling place as possible that also complies with the statutory polling place requirements. If not possible to locate a new polling place in the precinct, the local election official may designate a polling place outside of the precinct without regard to the statutory distance limitations.

Upon deciding to relocate a polling place, the local election official must immediately notify the county auditor and the secretary of state. The notice must include the reason for the relocation and the reason for the location of the new polling place. As soon as possible, the local election official must also post a notice stating the reason for the relocation and the location of the new polling place. The notice must be posted on the website of the public body, if one exists. The local election official must notify the election judges and request that local media outlets publicly announce the reason for the relocation and the location of the polling place. Additionally, on Election Day, the local election official must post a notice in large print in a conspicuous place at the polling place where the emergency occurred, if practical, stating the location of the new polling place. The local election official must also post the notice, if practical, in a location visible by voters who vote from their motor vehicles.

### 3. Polling place requirements

Besides those relating to location, polling places must also meet the following requirements:

- Each polling place shall be accessible to and usable by elderly individuals and individuals with disabilities.
- The polling place must not be located in any place that serves liquor or beer.
- The room where the voting takes place must be large enough to accommodate all election equipment, including the judges' tables, ballot boxes, and all voting booths and machines.
- All ballot boxes, booths and judges must be in open view of everyone in the room.
- All booths or stations must be constructed so that a voter is free from observation while marking ballots.
- During the hours of voting, the booths or stations must have instructions, a pencil, and other supplies needed to mark the ballots. A chair must be provided for elderly voters and voters with disabilities to use while voting or waiting to vote. Stable, flat writing surfaces must also be made available to voters who are completing election-related forms.

## RELEVANT LINKS:

- The national flag must be displayed at the entrance to the polling place during voting hours.
- A poster displaying the “Voter’s Bill of Rights” must be posted in a conspicuous location or locations in the polling place.
- At least one handicapped parking space must be available near the accessible entrance.
- Each accessible polling place must have at least one accessible voting booth or accessible voting station and one voting system that complies with the federal Help America Vote Act.

A polling place constitutes an accessible and usable polling place when it complies with the following:

- At least one set of doors used for entering or leaving must have a minimum width of 32 inches.
- Any curb adjacent to the main entrance to a polling place must have curb cuts or temporary ramps. Where the main entrance does not represent an accessible entrance, any curb adjacent to the accessible entrance must also have curb cuts or temporary ramps.
- Where the main entrance is not the accessible entrance, a sign shall be posted at the main entrance giving directions to the accessible entrance.
- At least one set of stairs must have a temporary handrail and ramp, if stairs used to enter or leave the polling place.
- No barrier in the polling place may impede the path of persons with disabilities to the voting booth.

[Minn. Stat. § 204B.16, subd. 4.](#)

[A.G. Op. 469-C-6 \(Jan. 8, 1954\).](#) [A.G. Op. 185-A-5 \(Apr. 5, 1954\).](#)

The restriction against using buildings serving liquor or beer applies only when a person can go from the polling place to the room where alcoholic beverages are served without leaving the building. If no doors exist between the rooms, making it necessary to go outside to get from the polling place to the where alcohol is served, then the restriction does not apply.

In keeping with this interpretation of the law, the attorney general has ruled that, where city hall houses a municipal liquor store but the municipal liquor store shares no common access and has a separate entrance, the remainder of the hall may be used for voting purposes. In another ruling, however, the attorney general advised that the basement of a restaurant was not a proper polling place since access to the basement was through a lobby that also provided access to the room where liquor was sold.

## B. Wards

Some cities have ward systems in addition to precincts. A ward is not defined by statute, but generally represents an election district within a city for council election. Each ward elects its own councilmember to represent the interests and concerns of that ward. State statute requires the following:

[Minn. Stat. § 205.84, subd. 1.](#)

## RELEVANT LINKS:

[Minn. Stat § 351.02.](#)

[A.G. Op. 63-a-11 \(Oct. 24, 1974\).](#)

[Minn. Stat. § 205.84, subd. 1.](#)

[Minn. Stat. § 414.031, subd. 4a.](#)

[Minn. Stat. § 414.02, subd. 3.](#)

[Minn. Stat. § 414.041, subd. 5.](#)

[Minn. Stat. § 204B.135, subd. 1.](#) See also *Kahn v. Griffin*, 701 N.W.2d 815 (Minn. 2005).

- Population. Each ward must be as equal in population as practicable.
- Territory. Each ward must be composed of compact, contiguous territory.
- Residency of councilmembers. Each councilmember must be a resident of the ward for which elected. However, a change in boundaries may not disqualify a councilmember from serving the remainder of his or her term.

In first class cities where the councilmembers are elected by ward to serve for four-year unstagged terms, if the population of any ward changes by 5 percent or more, all councilmembers must be elected to new terms at the first municipal general election after redefining ward boundaries. If no municipal general election would otherwise occur in the year ending in 2 or 3, a city general election must be held in one of those years. This provision applies notwithstanding any home rule charter provisions to the contrary.

Usually only home rule charter cities have ward systems. The city's charter often defines the size and number of wards. Generally, no statutory authority exists for a statutory city to adopt a ward system. However, the following situations could result in statutory cities having ward systems:

- Annexation proceedings. Statutory cities may have to have ward systems when ordered by the Office of Administrative Hearings (Municipal Boundary Adjustments) as part of certain annexation proceedings.
- Incorporation proceedings. Municipal Boundary Adjustments may order that a city use a ward system to ensure proper representation of different areas of the city. Statutory cities ordered to use the ward system upon their incorporation may abandon it only after they have been incorporated for at least four years. To do this, the council must adopt a resolution by a four-fifths vote abolishing the ward system and providing for the election of councilmembers at large as in other municipalities.
- Consolidation proceedings. Municipal Boundary Adjustments may order a ward system whenever a new city results from the consolidation of one or more cities. When more than two years have elapsed after the consolidation, the governing body may, by a four-fifths vote, abolish the ward system.
- Special incorporation proceedings. Some statutory cities were incorporated under special laws that established their ward systems. These cities may continue these systems.

Cities with ward systems may not redistrict those wards before the Legislature has been redistricted. The wards must be redistricted within 60 days after the Legislature has been redistricted or at least 19 weeks before the state primary election in a year ending in 2, whichever comes first.

## RELEVANT LINKS:

[Minn. Stat. § 204B.135, subd. 1.](#)  
[Minn. Stat. § 204B.14, subd. 3.](#)  
[Minnesota Secretary of State: Redistricting Guide.](#)

[Minn. Stat. § 205.84, subd. 2.](#)

[Minn. Stat. § 205.84, subd. 2.](#)

[Minn. Stat. § 205.84, subd. 1.](#)

See Section. *Precincts.*

[Minn. Stat. § 205.16, subsd. 1, 4.](#) [Minn. Stat. § 205.16, subd. 4.](#)

[Minn. Stat. § 205.16, subsd. 1.](#)

In a city of the first class (cities having more than 100,000 inhabitants) electing councilmembers by wards in a year ending in 1, the ward boundaries may be re-established no later than 14 days before the first day to file affidavits of candidacy for city councilmembers. The ward boundaries may be modified after the Legislature has been redistricted for the purpose of establishing precinct boundaries.

Precinct boundaries in a city of the first class electing councilmembers by wards may be re-established within four weeks of the adoption of ward boundaries in a year ending in 1.

After official certification of the federal decennial or special census, the governing body of a city with wards must do one of the following:

- Confirm the existing ward boundaries as conforming to the state redistricting standards.
- Redefine ward boundaries to conform to those standards.

Failure to accomplish the above prohibits the mayor and councilmembers from receiving further compensation until the city complies with above standards.

An ordinance establishing new ward boundaries becomes effective on the date of the state primary in a year ending in 2, except that the new ward boundaries established by a city in a year ending in 1 take effect on the date of the municipal primary election in the year ending in 1.

Cities with ward systems should also see the section of this document that discusses election precincts and their boundaries.

## C. Notices of city elections

The city clerk must provide a written notice at least 74 days before every municipal election to the county auditor, including the date of the election and the offices and questions to be voted on.

First Class, Second Class, and Third Class cities must publish notice of city elections two weeks before the election. They may also post notice 10 days before at the discretion of the council, unless a charter provides other notice requirements. Fourth Class cities (under 10,000 population) may choose not to publish, in which case they must give 10 days' posted notice. The notice must report:

- Time the polls will be open and the place of voting for each precinct if the city has more than one precinct.
- Offices to be filled.
- Questions, if any, which will appear on the ballot.

## RELEVANT LINKS:

[Minn. Stat. § 205.16, subds. 2, 3.](#)  
[Minn. Stat. § 473.121.](#)

[Minn. Stat. § 205.10, subd. 6.](#)  
[Minn. Stat. § 205.16, subd. 4.](#)

[Minn. Stat. § 207A.14.](#)

[Minn. Stat. § 207A.14.](#)  
[Minn. Stat. § 207A.12.](#)

[Minn. Stat. § 204B.34, subd. 1.](#)

[Minn. Stat. § 205.16, subd. 1.](#)

The clerk must publish a sample ballot at least two weeks before the election in the official newspaper; except that, Fourth Class cities (under 10,000 population) not located within a metropolitan county, may dispense with publication. In addition, at least two weeks before the election, the clerk must prepare a sample ballot for the city and make it available for public inspection in the clerk's office and post a sample ballot in each polling place on election day.

A special election ordered by the city council on its own motion may be canceled by motion of the city council as long as written notice is provided to the county auditor at least 74 days before the municipal election.

### **D. Notice of presidential nomination primary**

At least 15 days before the date of the presidential nomination primary, the clerk must post a public notice stating the date of the presidential nomination primary, the location of each polling place in the municipality, the hours during which the polling places in the municipality will be open, and other statutory information, including notice that the voter's choice of a political party's ballot will be recorded and is public information. The governing body of a municipality or county may publish the notice in addition to posting it. Failure to give notice does not invalidate the election.

### **E. Notice of state elections**

At least 15 days before any state general election or primary, the clerk must post in the clerk's office a notice containing the following information:

- The state offices for which candidates will be nominated or elected.
- The location of each polling place in the city.
- The hours the polls will be open.

Permissively, the notice also may include a list of open city offices to which candidates must be nominated or elected. The council may publish as well as post this notice, but failure to do either would not invalidate the election.

### **F. Reimbursable local expenses for presidential primary**

The secretary of state must reimburse the city for certain expenses incurred in the administration of the presidential nomination primary from money contained in the presidential nomination primary elections account. The eligible, reimbursable expenses include: preparation and printing of ballots; postage for absentee ballots; publication of the sample ballot; preparation of polling places (in an amount not to exceed \$150 per polling place);

## RELEVANT LINKS:

[Minn. Stat. § 204B.18. Minn. Stat. §§ 204B.27-.29. Minn. Stat. § 204C.26.](#)

[Minn. Stat. § 204B.32, subd. 1 \(c\).](#)

[Minn. Stat. § 204B.28, subd. 3.](#)

preparation of electronic voting systems (in an amount not to exceed \$100 per precinct); compensation for temporary staff or overtime payments; salaries of election judges; and compensation of county canvassing board members.

Within 60 days after certification by the State Canvassing Board of the presidential nomination primary results, the clerk must submit a request for payment of the costs incurred by the city for conducting the presidential nomination primary. The secretary of state shall provide the city with the appropriate forms for requesting payment and certifying expenses. The clerk must submit the request to the secretary of state, and must attach an itemized description of actual expenditures, including copies of invoices. In addition, the clerk must certify that the request for reimbursement is based on actual costs incurred by the city for the presidential nomination primary.

The secretary of state must issue reimbursements to the city no later than 90 days after the State Canvassing Board has certified the results of the presidential nomination primary.

### **G. Equipment and supplies**

The clerk should supply, at city expense, necessary election equipment and supplies for all elections except those specified by statute (such as special county elections or presidential primaries). Each precinct should receive all necessary supplies.

Two or more precincts may share some equipment, such as voting booths and a flag, when all voting takes place in a single polling place. Necessary equipment includes the following:

- Equipment for the polling place—flag, tables, chairs for the election officials, voting booths, voting machines if the precinct uses them, curtains for the voting booths, and cards with instructions to the voters.
- Equipment for the voting booths—instructions to voters, indelible pens or pencils, a shelf for writing purposes, proper lighting, and any other equipment necessary to facilitate the task of filling in ballots.
- Equipment for conducting the election—ballots, ballot boxes, polling-place rosters, summary-statement blanks, evidence tape for sealing, heavy envelopes for returning the counted ballots, and envelopes for the return of uncounted, defective, and unused ballots.

The county auditor or city clerk must certify the number of ballots being provided to each precinct. This number must be provided to the election judges for inclusion on the summary statement. The auditor or clerk must not open prepackaged ballots, but must count the ballots, presuming that the total count for each package is correct.

## RELEVANT LINKS:

[Minn. Stat. § 204B.28, subd. 2.](#)

[Minn. Stat. § 204B.29, subd. 1.](#)

Secretary of State's: [Example Ballots.](#)

[Minn. Stat. § 204B.39.](#)

[Help America Vote Act, Public Law 107-252, 301\(a\)\(3\)\(B\).](#)  
[Minn. Stat. § 204B.36, subd. 1.](#)  
[Secretary of State: current City Clerk Election Guide.](#)

[Minn. Stat. § 206.90, subd. 6.](#)  
[Minn. Stat. § 204B.36, subd. 1.](#)

At least four days before state elections, the city clerk must obtain the supplies and instructions provided by the county auditor. If the clerk has not already received the booklet containing Minnesota election laws published by the secretary of state, the auditor must include it with the other supplies.

Before 9 p.m. on the day before any election, at least one election judge from each precinct must pick up the supplies for that precinct from the city clerk. If the judges fail to do so, the clerk must send the supplies by special messenger to the judges or the polling place. The messenger must obtain a receipt for the supplies. The clerk must file this receipt, plus the messenger's affidavit stating where, when, and to whom he or she delivered the materials. Any expense incurred is charged to the election judges.

## H. Ballots

The city clerk prepares the ballots for city elections. The county auditor provides ballots for county and state elections. The city pays the cost of printing ballots unless other arrangements for allocating the cost of combined elections exist.

When official ballots are not available at the polling place, or when the supply is not sufficient, the official responsible for printing ballots may prepare substitute ballots. These substitutes must be as identical as possible to the official ballot and must have the word "Substitute" in brackets immediately over the words "Official Ballot."

### 1. Optical-scan ballots

Cities must use optical-scan ballots for all elections, even if the city will hand count the ballots. Also, each precinct must have at least one AutoMARK™ system, which allows voters with disabilities to vote independently. AutoMARK™ systems only read optical-scan ballots. Because optical-scan ballots must be used for all the AutoMARK™ systems and because every voter must use the same ballot, all cities must now use optical-scan ballots for all city elections.

When using an optical-scan voting system, all offices and questions appear on the same ballot. The ballot must be printed in black ink on white paper, except that marks not to be read by the automatic tabulating equipment may be printed in another color ink.

The paper used for ballots should be of sufficient weight to prevent the printing from being discernible from the back (as close as possible to thirty-pound paper).

## RELEVANT LINKS:

[Minn. Stat. § 204B.29, subd. 1.](#)  
[Minn. Stat. § 205.17. Minn. Stat. §§ 204B.35-.44.](#)

[Minn. Stat. § 204B.38. Minn. Stat. § 204B.35, subd. 2.](#)  
[Schiff v. Griffin](#), 639 N.W.2d 56 (Minn. Ct. App. 2002).  
[Minn. Stat. § 204B.36, subd. 5.](#)

[Minn. R. 8230.1450.](#)

[Minn. Stat. § 204B.40.](#)

[Minn. Stat. §§ 138.163 - .21.](#)

[Minn. Stat. ch. 206. Minn. R. ch. 8220. Minn. R. ch. 8230.](#)  
Section VIII - *Help America Vote Act*.

The Secretary of State's Office: [Elections Center](#) can be reached at (651) 215-1440 or (877) 600-VOTE (8683).

Each precinct must receive at least 100 ballots for every 85 votes cast and counted in that precinct at the last city general election, plus enough to fulfill absentee-ballot needs.

The ballot must spell candidates' names the same way as on the affidavit of candidacy for state elections. State law generally prohibits any ballot designation describing the candidate's occupation, qualifications, principles, or opinions unless permitted by law. But, where the similarity of both the first and last names of two or more candidates for the same office at the same election may cause confusion, three identifying words relating to occupation or residence after the candidates' names may be inserted. Candidates with similar names must submit their written identifying statement to the city clerk before the last date for withdrawing candidacy. The ballot must not include the word "incumbent," except if required for judicial offices.

The general-election ballot must include a blank space for write-in votes for each office. A voter may not place a sticker on a ballot that will be placed into a ballot box or counter. No blank lines for write-ins are allowed on primary ballots.

The city clerk must retain all election materials returned to them after any election for at least 22 months from the date of that election. All election materials involved in an election contest must be retained for 22 months or until the final determination of the contest, whichever is longer. Abstracts filed by the canvassing boards must be permanently retained by any officer with whom they are filed.

Sealed envelopes containing voted ballots must be retained in a secured location unopened, unless the law provides for them to be opened. The city clerk must not permit any voted ballots to be tampered with or defaced. Election materials no longer required to be retained must be disposed of in accordance with state law.

## 2. Optical-scan voting equipment

Cities may purchase optical-scan voting equipment with money from the general fund, by special-tax levy, a bond issue (these bonds are not subject to statutory debt limits and do not require a popular vote), rent purchase, or a deferred-payment-plan contract. The Help America Vote Act, in some instances, also provides funding for these purchases. The council may use any method of financing it thinks is best.

The secretary of state must approve and certify the equipment before manufacturers can sell voting equipment in Minnesota. Cities interested in purchasing equipment should contact the secretary of state for a list of approved equipment.

## RELEVANT LINKS:

Secretary of State's [current Election Judge Guide](#).  
Secretary of State's: [current City Clerk Election Guide](#).

[Minn. Stat. § 204B.19](#). [Minn. Stat. § 204B.21](#).

[Minn. Stat. § 204B.19](#).

[Minn. Stat. § 204B.19](#), subds. 5, 6.

[Minn. Stat. § 204B.21](#).

## I. Election judges

Election judges have many duties both on election day and in the time leading up to the election. This section provides some basic information. The secretary of state also has two additional guides that provide useful information: Election Judge Guide and City Clerk Election Guide.

### 1. Qualifications

An individual must be eligible to vote in the state where he or she serves as an election judge. To serve as an election judge, an individual must meet all of the following qualifications:

- Other than in limited circumstances, must not be the spouse; parent, including a stepparent; child, including a stepchild; or sibling, including a stepsibling, of any other judge in the same precinct or of any candidate.
- Must not be domiciled, either permanently or temporarily, with any candidate on the ballot at that election.
- Must not be a candidate for elective office in the same election.
- Must be able to read, write, and speak English understandably.

Individuals related to each other in the manner defined in bullet point one above may serve as election judges in the same precinct as long as they serve on separate shifts that do not run concurrently.

No more than half the number of judges in any precinct (plus one if the number of judges is uneven) may belong to the same political party. The council may establish other qualifications and may examine applicants to determine whether they meet these provisions. High school students (16 and older) can serve as trainee election judges if they meet certain conditions.

For partisan elections, the clerk receives a list of potential election judges from the county auditor. Each major political party supplies lists to the secretary of state, who combines and processes the names and then provides them to the county auditors. The council uses these lists to make election-judge appointments, while considering the other necessary qualifications. At least two election judges in each precinct must be affiliated with different major political parties.

If the council does not receive a list or if additional election judges are required after all listed names in the city have been exhausted, the council may appoint other individuals who meet the qualification to serve as an election judge, including persons not affiliated with a major political party. The council must make election-judge appointments at least 25 days before the election at which the election judges will serve.

## RELEVANT LINKS:

[Minn. Stat. § 204B.22, subd. 1.](#)

[Minn. Stat. § 204B.22, subd. 4.](#)

[Minn. Stat. § 204B.20.](#)

[Minn. Stat. § 204B.25.](#)  
[Minn. R. 8240.0100-.2900.](#)

[Minn. Secretary of State Election Judge Training resources](#)

[Minn. R. 8240.1300.](#)

However, the council may pass a resolution authorizing the appointment of additional election judges within the 25 days before the election if the council determines that additional election judges will be required.

## 2. Number of required election judges

Each precinct must have a minimum of four judges in a general election. However, state law allows a minimum of three election judges in precincts with fewer than 500 registered voters as of 14 weeks before the state primary. All other elections require at least three election judges per precinct. The council, at its discretion, may appoint more. The presence or participation of election-judge trainees must not count towards satisfying any of the required numbers of election judges.

## 3. Head election judge

When appointing election judges, the council designates one judge in each precinct to serve as the head election judge. This official shoulders the responsibility for completion of the work of the board and delegates work among the other judges.

## 4. Training

The county auditor provides training for all election judges, but may delegate this duty to the city clerk.

The secretary of state's rules provide detailed regulations about training.

Before each state primary, the training authority (auditor or clerk) attends a conference conducted by the secretary of state on election administration and training where he or she receives training materials, including the Election Judges' Guide.

A training program consists of a basic course, a review course, and an emergency course. Election judges must complete the basic-training course that qualifies them to serve at all future elections if they complete a review course before each election. Election judges are to repeat the basic course if they have not served in at least one election in four years. An emergency course is available for election judges appointed by the council to fill vacancies that occur after the completion of the basic-training course.

Each judge who successfully completes the basic-training course receives a certificate to present to the chief election judge of the precinct prior to the swearing-in on election day.

## RELEVANT LINKS:

[Minn. Stat. § 204B.24.](#)

[Minn. Stat. § 204B.24.](#)

[Minn. Stat. § 204B.23.](#)

[Minn. Stat. § 204B.195.](#)

[Minn. Stat. § 204B.31\(d\).](#)

[Minn. Stat. § 204B.19, subd. 6.](#)  
[Minn. Stat. § 204B.31, subd. 2.](#)  
[26 U.S.C.A. § 3121\(b\)\(7\)\(F\)\(iv\).](#)  
[42 U.S.C.A. § 410\(a\)\(7\)\(F\)\(iv\).](#)

[IRS Circular E, Employers' Tax Guide \(IRS Publication 15\).](#)

## 5. Oath

Before beginning their duties, all election judges must take the following oath:

“I, (person’s name), solemnly swear (or affirm) that I will perform the duties of election judge according to law and the best of my ability and will diligently endeavor to prevent fraud, deceit and abuse in conducting this election. I will perform my duties in a fair and impartial manner and not attempt to create an advantage for my party or for any candidate.”

Each judge must sign this oath and return it with the election returns. Judges may administer the oath to each other.

If any election judge fails to appear and assume the duties of the position within 30 minutes after the polls open or otherwise fails to perform those duties, the remaining judges in the precinct must select a qualified person from the precinct to fill the vacancy. The clerk may assign election judges to fill vacancies as they occur.

## 6. Time off from work

Individuals selected to serve as election judges may, after giving their employers at least 20 days written notice, take time off from work to serve as an election judge. An employer may not penalize an employee for the absence other than to make a deduction in salary for the amount of the hourly wages paid for election-judge duties.

The written request from the employee to take time off must include a certification from the appointing authority stating the hourly wage to be paid to the judge and the hours to be worked.

An employer may restrict the number of employees serving as election judges to no more than 20 percent of the total workforce per work site.

## 7. Compensation

The city must generally pay election judges at least the prevailing state minimum wage for each hour they spend carrying out their duties at the polling places and attending required training sessions. Judges who travel to pick up election supplies or deliver election returns to the county auditor must receive pay for each hour they spend traveling plus the same rate of mileage as city employees receive.

If high school students work as trainee election judges, they must be paid not less than two-thirds of the minimum wage for a large employer.

## RELEVANT LINKS:

[Minn. Stat. § 204C.06, subd. 5.](#)

[Minn. Stat. § 204B. 31\(e\).](#)

[Minn. Stat. § 204C.07, Minn. Stat. § 204C.12.](#)

[Minn. Stat. § 204C.07, subds. 1, 3.](#)

Any person appointed to serve as an election judge, however, may elect to serve without payment by submitting a written statement to the appropriate governing body no later than ten days before the election. Federal law requires deductions from election judges' compensation for Social Security and Medicare if the amount received equals or exceeds \$1,700 or more in 2016 (this amount gets adjusted annually).

## J. Other election officials

### 1. Sergeant at arms

The election judges may appoint, when necessary, a sergeant at arms to keep the peace or otherwise assist them. An election judge may request a sergeant at arms or a peace officer to arrest or remove an individual for disorderly conduct.

The compensation for a sergeant at arms must equal the rate paid to election judges. Election judges generally must receive at least minimum wage.

### 2. Challengers

Challengers are not election officials, but they are a part of Election Day. Depending on the type of election, challengers represent either a political party, a candidate, or the public. Challengers may challenge the qualifications of voters and observe the election proceedings. Challengers seeking admission to a polling place must prove they are state residents.

Challengers may be in the polling place during the voting and the counting of ballots, but they may not handle election materials or talk with the voters at any time, except to establish the voter's qualification to vote in the precinct and only then with an election judge present. Challengers may not attempt to influence voting, nor may they prepare lists of individuals who have or have not voted. An election judge may not be appointed as a challenger.

In partisan elections, each party may appoint a voter from each precinct to serve as a challenger. For non-partisan elections, each candidate may appoint a challenger. At any election in which a city question is on the ballot, the mayor must appoint one voter from each precinct as a challenger if at least 25 voters request he or she do so in a written petition submitted to the clerk of the municipality. Although each of the groups may appoint more than one challenger, only one may serve at a time in each precinct. A written certificate is necessary for all appointments.

## RELEVANT LINKS:

[Minn. Stat. § 204B.25, subd. 3.](#)  
[Minn. Stat. § 204B.27, subd. 10.](#)

[Minn. Stat. § 204B.45, subd. 1.](#)  
[Minn. R. 8210.3000.](#)  
[Minn. Stat. § 473.121.](#)

[Minn. Stat. ch. 203B.](#)

[Minn. Stat. § 204B.45, subd. 2.](#)

[Minn. Stat. § 204B.46.](#)

### 3. City clerks

At least once every two years, the county auditor must conduct training sessions for municipal clerks in the manner provided by the secretary of state. The secretary of state first trains the county auditors in election management and provides the auditors with materials to use in training the local election officials. No local election official may administer an election without receiving training from the county auditor.

### K. Elections by mail

A city with fewer than 400 registered voters on June 1 of an election year and not located within a metropolitan county may hold elections by mail at any city, county, or state election with no polling place other than the office of the auditor or clerk or other designated location. The city council may designate any precinct having fewer than 100 registered voters to have a mail election, subject to approval of the county auditor.

Eligible voters not registered at the time the ballots are mailed may apply for ballots. Ballot return envelopes, with return postage provided, must be preaddressed to the clerk, and the voter may return the ballot by mail or in person to the office of the clerk.

The clerk must appoint a ballot board to examine the mail and absentee ballot return envelopes and mark them “accepted” or “rejected” within three days of receipt if there are 14 or fewer days before election day, or within five days of receipt if there are more than 14 days before election day. The board may consist of deputy municipal clerks who have received training in the processing and counting of mail ballots, who need not be affiliated with a major political party. Election judges may serve on the board, but must belong to different major political parties, unless exempt from that requirement under state law. The mail and absentee ballots for a precinct must be counted together and reported as one vote total. No vote totals from mail or absentee ballots may be made public before the close of voting on Election Day. Any ballot received by 8 p.m. on the day of the election must be counted. The costs of the mailing shall be paid by the election jurisdiction in which the voter resides.

If an envelope has been rejected at least five days before the election, the ballots in the envelope must remain sealed, and the clerk shall provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If rejection of the ballot occurs within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or email to notify the voter of the rejected ballot.

## RELEVANT LINKS:

[Minn. Stat. § 204B.46. Minn. R. 8210.3000. Secretary of State's: Mail Voting Guide.](#)

[Minn. Stat. § 204C.06, subd. 2.](#)

[Minn. Stat. § 204C.06, subd. 2.](#)

[Minn. Stat. § 204C.06, subd. 8.](#)

[Minn. Stat. § 204B.27, subd. 7.](#)

The official must document the attempts made to contact the voter. If the ballot is accepted, the clerk must mark the roster to indicate that the voter already has cast a ballot in that election. After the close of business on the seventh day before the election, the ballots from return envelopes marked "Accepted" may be opened, duplicated as needed in the manner provided by state law, initialed by the members of the ballot board, and deposited in the ballot box.

A city submitting questions to the voters at a special election may conduct the election by mail with no polling place other than the office of the auditor or clerk. No offices may be voted on. The secretary of state's Mail Voting Guide outlines the procedures for conducting a special election by mail.

### **L. Conduct in and near polling places**

Only the following individuals may stay in a polling place:

- Election judges.
- Sergeants at arms.
- Peace officers.
- Official challengers.
- Voters about to vote.
- Individuals registering to vote.
- Individuals assisting physically disabled voters or voters unable to speak English (while assisting such voters).
- Representatives of the secretary of state's office, the county auditor's office, the city clerk's office, and the school district clerk's office to observe procedures.

Teachers and elementary or secondary school students participating in an educational activity may be present at the polling place during voting hours. Also, news media representative may enter a polling place during voting hours only to observe the voting process. A media representative must present photo identification to the head election judge upon arrival, along with either a recognized media credential or a written statement from a local election official attesting to the media representative's credentials and must not: 1) approach within six feet of a voter; 2) talk with a voter while in the polling place; 3) make a list of persons voting or not voting; or 4) interfere with the voting process.

The following limitations also apply to polling places:

## RELEVANT LINKS:

[Minn. Stat. § 204C.06, subd. 1.](#)  
[See, American Broadcasting Companies, Inc. v. Ritchie., Civil No. 08-528 \(D. Minn. 2011 \) \(unpublished\).](#)

[Minn. Stat. § 211B.11, subd. 1.](#)

[Minn. Stat. § 204C.06, subd. 7.](#)

[Minn. Stat. § 204C.06, subds. 5, 6.](#)

[Minn. Stat. § 205.07, subd. 1. A.G. Op. 64f \(Oct. 27, 1995\).](#)

[Minn. Stat. § 205.07, subd. 1.](#)

[Bauman v. City of Brighton et. al, 62-CV-16-4808, slip op. \(Minn. 2<sup>nd</sup> Dist. Ct., August 25, 2016\).](#)

[Minn. R. 8205.1010.](#)

[Minn. R. 8205.1050.](#)

[Bauman v. City of Brighton et. al, 62-CV-16-4808, slip op. \(Minn. \(2<sup>nd</sup> Dist. Ct., August 25, 2016\).](#)

- No individual, except an election official or an individual waiting to either register or to vote, or an individual conducting exit polling, shall stand within 100 feet of the building in which a polling place is located. “Exit polling” is defined as approaching voters in a predetermined pattern as they leave the polling place after they have voted and asking voters to fill out an anonymous, written questionnaire.
- No campaigning can occur within 100 feet of where voting takes place at the precinct-polling place. Except for those about to vote, no one may approach within six feet of a voting booth without specific permission from the judges.
- No one can bring any malt or intoxicating liquors into any polling place on Election Day. This rule applies to election officials as well as to voters.
- Sergeants at arms and peace officers may remain in a polling place only when the election judges order it and only for as long as the election judges determine necessary.

## M. Day and time of city elections

State law sets the date for city general elections as the first Tuesday after the first Monday in November of each even-numbered year. A city may, however, by ordinance passed at a regular meeting, elect to hold the election on the first Tuesday after the first Monday in November of each odd-numbered year.

A city may hold elections in either the even-numbered year or the odd-numbered year, but not both.

A city may, by ordinance passed at a regular meeting held before June 1 of any year, elect to hold the election on the first Tuesday after the first Monday in November in each odd-numbered year. Confusion exists as to what “before June 1 of any year” means, and one state district court has defined that phrase to mean that adoption of the ordinance must happen at a regular meeting held sometime between Jan. 1 and May 31 of any year. The city clerk must immediately notify the county auditor and the secretary of state, in writing, of the change. The new election date continues until the council repeals the ordinance.

An ordinance changing the year of the municipal election takes effect 240 days after passage and publication or at a later date fixed in the ordinance. Within 180 days after passage and publication of the ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. The petition shall be signed by eligible voters equal in number to 10 percent of the total number of votes cast in the city at the last municipal general election.

## RELEVANT LINKS:

[Minn. Stat. § 205.175. Minn. Stat. § 204C.05, subd. 1.](#)

[Minn. Stat. § 205.175.](#)

[Minn. Stat. § 205.105.](#)

The suspension of the ordinance happens automatically upon filing of the petition. If these voters file the petition within the prescribed period, the ordinance shall not take effect until approved by a majority of the voters voting on the question at a general or special election held at least 60 days after submission of the petition. Once the city clerk has received a petition, the city clerk must verify the petition. Upon the filing of the petition, the governing body may reconsider its action in adopting the ordinance. If the governing body does not, a district court may strike the ordinance.

For all municipal elections, the council may open the polls at any time during the day, but the polls must be open, at a minimum, between the hours of 5 p.m. and 8 p.m. For cities located in metropolitan counties, the polling places shall open no later than 10 a.m. and close no earlier than 8 p.m. If the city election is on the same day as the state election, the polls for both home rule charter and statutory city elections must remain open as long as the polls are open for the state election—7 a.m. to 8 p.m.

Non-metropolitan cities may extend the hours that the polls stay open beyond the minimum required hours. In order to do so, the city council must pass a resolution fixing the time the polls will be open. Clerks in non-metropolitan cities must give 10 days' notice of the changed voting hours and must notify the county auditor of the changes. In addition, citizens in non-metropolitan cities may petition to extend the polling hours so that the polls will be open from 10 a.m. to 8 p.m. Once set, the time remains the same for all future city elections unless changed by the council.

In cases of emergency relocations of or combinations of polling places under state law, the local election official may extend polling place hours to accommodate voters that would have been in line at the regular polling place if the polling place had not been combined or moved on Election Day. Polling place hours may be extended at the new polling place for one hour. The local election official must immediately provide notice to the county auditor, secretary of state, and election judges of the extension in polling place hours. The local election official also must request that the local media outlets publicly announce the extended polling place hours. Voters in the polling place or waiting in line at the door to register or to vote at the end of the extended polling place hours shall be allowed to vote.

### **1. Postponing elections due to weather**

A city primary, special, or general election, not held in conjunction with a state or federal election, may be postponed due to severe or inclement weather.

## RELEVANT LINKS:

[Minn. Stat. § 205.105.](#)

[Minn. Stat. § 205.105.](#)

[Minn. Stat. § 204D.03.](#) [Minn. Stat. § 204C.05.](#)

[Minn. Stat. §§ 204C.08-.13.](#)

[Minn. Stat. § 204C.08, subd. 1.](#)

[Minn. Stat. § 204C.08, subd. 2.](#)

The election may be postponed when the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories indicating that the weather conditions would make travel to a polling place difficult or hazardous for voters and election judges. The decision to postpone must apply to every precinct in the jurisdiction.

The decision to postpone an election must occur no later than 6 p.m. on the day before the election. The clerk must contact the election judges and notify local media outlets of the postponement. The clerk must also post a notice to the city's website, if practicable.

The postponed election must be rescheduled for the next following Tuesday after the election originally was scheduled. The date on which the postponed election will be held must be considered the date of the election for the purposes of absentee voting. If necessary, an election may be postponed again.

## N. Day and time of state elections

Regular state elections take place in each even numbered year. State law sets the state primary for the second Tuesday in August, and the general election for the first Tuesday after the first Monday in November. All polling places in the state must remain open continuously from 7 a.m. to 8 p.m. on state primary and general election days.

## O. Conduct of voting

Conducting an election and settling voter challenges involves several steps:

### 1. Voting procedure

Before the polling place opens for voting:

- The election judges must meet at the polling place at least one hour before the opening of the polls. During this time, the election judges must compare the ballots used with the sample ballots, electronic ballot displays, and audio ballot reader furnished to see that the names, numbers, and letters on both agree and shall certify to that fact on forms provided. The certification must be filed with the election returns.
- The election judges must post any official voter instruction posters furnished to them in a conspicuous location or locations in the polling place.

**RELEVANT LINKS:**

[Minn. Stat. § 204C.08, subd. 2a.](#)

[Minn. Stat. § 204C.08, subd. 1a.](#)

[Minn. Stat. § 204C.08, subd. 1b.](#)

[Minn. Stat. § 204C.09, subd. 1.](#)

[Minn. Stat. § 204C.09, subd. 1.](#)

[Minn. Stat. § 204C.08, subd. 3.](#)

[Minn. Stat. § 204C.10.](#)

[Minn. Stat. § 204C.10.](#)

[Minn. Stat. § 204C.13, subd. 2.](#)

[Minn. Stat. § 204C.13, subd. 5.](#)

[Minn. Stat. § 204C.13, subd. 7.](#)

[Minn. Stat. § 203B.24.](#)

- At least two sample ballots must be posted in a conspicuous location in the polling place and must remain open to inspection by the voters throughout Election Day. The sample ballots must accurately reflect the offices, candidates, and rotation sequence on the ballots used in that polling place. The sample ballots may be either in full or reduced size.
- Election judges must conspicuously post a notice of the closing time outside the polling place, and place a United States flag at the entrance of the polling place.
- A poster with the “Voter’s Bill of Rights” must be posted in a conspicuous location or locations in the polling place.
- At least two election judges must certify the number of ballots delivered to the precinct. The election judges may presume that the total count provided for prepackaged ballots is correct. As each package is opened, two judges must count the ballots in the package to ensure the total count is correct.
- At least two election judges must certify the number of ballots delivered to the precinct. The election judges may presume that the total count provided for prepackaged ballots is correct. As each package is opened, two judges must count the ballots in the package to ensure the total count is correct.
- At least two election judges must place their initials on the back of each ballot in the blanks provided for them. No other marks may be made on the ballots.
- Immediately before voting is scheduled to begin, one election judge must open the ballot box in the presence of the others present, demonstrate that it is empty, lock it, and give the keys to another judge.

Before the polling place opens for voting, the following tasks must occur:

- Each voter must be registered on the polling-place roster or complete the Election-Day registration routine.
- Once a voter is registered, the judges must hand the voter one ballot of each kind and instruct the voter on how to mark and deposit them.
- The voter enters the voting booth or compartment to mark the ballot alone, unless assistance is authorized by law, or the voter may choose to use another writing surface. (The voter may take sample ballots into the booth, but should not leave them in the booth).
- The voter must place the ballots in the ballot box or deposit them in vote-counting equipment.
- Voters leave the polling place immediately and cannot return except with permission of the judges.
- Election judges must process absentee ballots.

**RELEVANT LINKS:**

[Minn. Stat. § 204C.06, subd. 2.](#)

[Minn. Stat. § 204C.09, subd. 2.](#)

[Minn. Stat. § 204C.13, subd. 3.](#)

[Minn. Stat. § 204C.15, subd.1.](#)

[Minn. Stat. § 204C.15, subd. 2.](#)

Secretary of State's: [Curbside Voter.](#)

[Minn. Stat. § 204B.27, subd. 11.](#)  
Secretary of State's: [Election Day Voting: Get Help Voting.](#)

[Minn. Stat. § 204C.06, subd. 7.](#)

- During voting hours no one except those receiving, marking, or depositing ballots shall be within six feet of a voting booth, ballot counter, or electronic voting equipment. However, a person authorized by an election judge, or an election judge monitoring the operation of the ballot counter or electronic voting equipment may be within six feet of booths, ballot counters, or electronic voting equipment.

No one may distribute any official ballot in the room where voting takes place except to voters who are about to vote. A ballot not officially endorsed in the handwriting of the election judges may not be placed in the ballot box. The ballot box must remain in public view at all times. Besides their authority to appoint sergeants at arms and peace officers, and to otherwise maintain order in the polling place, the judges also may make regulations governing the amount of time voters may take to complete and cast ballots.

If a voter spoils one of the ballots, the individual may return it to the judges and receive another unspoiled ballot of the same kind. Judges must keep spoiled ballots and return them to the county auditor or, in the case of city ballots, to the clerk.

A voter that needs assistance because of inability to read English or physical inability to mark a ballot may get assistance from two election judges who are members of different major political parties. The judges must mark the ballots as directed by the voter in as secret a manner as possible. A voter in need of assistance may instead get assistance from any individual chosen by the voter. However, the following people may not provide assistance to a voter: the voter's employer, an agent of the voter's employer, an officer or agent of the voter's union, or a candidate for election.

An individual physically unable to enter a polling place may register and vote without leaving a motor vehicle. Two election judges who are members of different major political parties must assist the voter in registering and completing a voter's certificate. The judges must provide the necessary ballots. The voter may request additional assistance in marking the ballots in the same manner as a person described in the paragraph above.

The secretary of state may develop voting instructions in languages other than English, to be posted and made available in polling places during elections. The state demographer will determine the languages so common that a need for translated voting instructions exist.

Any person who election judges deem obviously intoxicated may not vote and must not remain in the polling place for any purpose.

## RELEVANT LINKS:

[Minn. Stat. § 204C.12, Secretary of State's: Role of Challengers in the Polling Place.](#)

[Minn. Stat. § 204C.12, subd. 2, Secretary of State's: Oath of Challenge to Voter's Eligibility.](#)  
[Minn. Stat. § 204C.12, subd. 2.](#)  
[Minn. Stat. § 204C.12, subd. 2.](#)  
[Minn. Stat. § 204C.12, subd. 3.](#)

[Minn. Stat. § 204C.12, subd. 3.](#)

[Minn. Stat. § 204C.12, subd. 4.](#)

[Minn. Stat. § 204C.13, subd. 6.](#)  
[Minn. Stat. § 203B.121.](#)  
[Minn. Stat. § 204C.25.](#)  
[Minn. Stat. § 203B.24.](#)

See generally, *Minnesota Voter's Alliance v. Steve Simon*, A16-0690 (Minn. Sept. 28, 2016) (Minnesota Supreme Court refused review of challenge to this procedure).

[Minn. Stat. § 204C.19.](#)

## 2. Challenges

An election judge, challenger, or other voter may challenge an individual whom the person knows or reasonably believes is not an eligible voter.

Challengers follow the following procedures:

- The challenger must make the challenge and complete and sign a form prepared by the secretary of state.
- An election judge must administer an oath requiring the challenged voter to answer truthfully.
- The election judge may ask questions to establish a voter's qualifications.
- If the challenger does not withdraw the challenge, the election judge must orally administer a second oath to the challenged voter stating the voter's qualifications.
- If the voter takes the second oath, the election judge must allow the individual to vote.
- If the voter refuses to take the second oath or if the answers show the voter not qualified to vote, the election judge cannot allow the person to vote.
- The election judges appointed to the ballot board must follow ballot board procedures when deciding whether to receive or reject the ballots of an absent voter in the military or outside the United States and whether to deposit received absentee ballots in the ballot boxes following the procedures provided in Minn. Stat. §§ 203B.121 and 203B.24. Ballot boards must deal with any absentee ballots not received or deposited as provided in Minn. Stat. § 203B.121. A violation of this subdivision by an election judge is a gross misdemeanor.

## 3. Counting the ballots

The counting of votes must take place in public at the polling place immediately after the polls close. If the election judges lock the door or prevent people from entering the polling place at 8 p.m. in order to enforce the closing of the polls, they must re-open the doors or make access available when the counting begins. The counting must continue without interruption until completed. The election judges may take a temporary recess for meals or other necessary purposes. No one other than the election judges may handle the ballots during the counting.

## RELEVANT LINKS:

[Minn. Stat. § 204C.24.](#) [Minn. Stat. § 204C.27.](#)

[Minn. Stat. §§ 204C.22-.23.](#)

[Minn. Stat. § 204C.23.](#)

[Minn. Stat. § 205.185, subd. 3.](#)  
[Minn. Stat. ch. 13D.](#)

[Minn. Stat. § 205.185, subd. 3.](#)

[Minn. Stat. ch. 209.](#)

Election judges also must prepare the summary of results and secure and turn in election materials. One or more of the election judges in each precinct shall deliver two sets of summary statements; all spoiled ballots; and the envelopes containing the ballots either directly to the city clerk for transmittal to the county auditor's office or directly to the county auditor's office as soon as possible and no later than 24 hours after the end of voting.

One or more election judges shall deliver the remaining set of summary statements and returns, all unused and spoiled city ballots, the envelopes containing city ballots, and all other things furnished by the city clerk to the clerk's office within 24 hours after voting ends. The city clerk shall return all polling place rosters and completed voter registration cards to the county auditor within 48 hours after the voting ends.

### 4. Defective ballots

Even if a voter does not mark the ballot in accordance with authorized procedure, the election judges should count the vote if the voter's intentions are sufficiently clear. The judges should set aside the ballot as defective, however, if the intention of the voter is not clear; the voter cast more than the allowable number of votes for the same office; the voter wrote in a name on a primary ballot; or the voter marked the ballot with the intent of being able to identify the ballot.

If the ballot is defective only for some offices but not for others, the judges should term it defective only for those offices for which it is incorrect. Judges must count votes for other offices or questions. Judges should make a note on each of these ballots stating the offices or questions for which it is defective.

### 5. Canvassing board: City election

Between the third and the 10th day after the city general election, the council must meet as a canvassing board and declare the results of the election. Cities must remember that the Open Meeting Law applies to this meeting, and should properly notice the meeting and make it open to the public.

After the time for contesting elections has passed, the clerk shall issue a certificate of election to each successful candidate. In case of a contest, the certificate shall not be issued until the proper court has determined the outcome.

Once the council has announced the results of the election and notified candidates of their election, any challenge needs to go through the county's district court under the contested-elections procedure.

## RELEVANT LINKS:

[Minn. Stat. § 205.185, subd. 3.](#)

[Minn. Stat. § 204C.06, subd. 3, 4.](#)

[State v. Shane, 883 N.W.2d 606 \(Minn. Ct. App. 2016\) \(ballots burned\).](#)

[Minn. Stat. § 204C.36. Minn. Stat. ch. 209. Minn. R. ch. 8235.](#)

[Minn. Stat. § 205.185, subd. 4.](#)

[Minn. Stat. § 204.36. Secretary of State's: \[Recount Guide\]\(#\).](#)

A plurality of votes is sufficient to elect. This means the candidate receiving the highest number of votes, whether or not that number equals a majority, is elected. If the election results in a tie, the winner should be determined by lot in the presence of the council acting as the canvassing board.

After sending certificates of election to the successful candidates, the clerk also must certify the results to the county auditor. The clerk acts as the final custodian of the ballots and the election returns.

## 6. Ballot destruction

No individual shall intentionally move from a polling place any election file or election register other than authorized by law. Additionally, unless provided by law to do so, no individual shall intentionally either damage, deface, or mutilate any ballot, election file, or election register (any item of information contained on it) or add anything to a ballot, election file, or election register. State law considers ballot destruction a general intent crime and the law does not recognize a mistake of law defense to avoid criminal penalties.

## P. Recounts and contested elections

During the time for contesting elections, a losing candidate in a city primary or general election may request a recount under certain circumstances: (1) if the difference between the votes cast for that candidate and for a winning candidate for nomination or election is less than one-quarter of 1 percent of the total votes counted for that office; (2) if the difference between the votes cast for that candidate and for a winning candidate is 10 votes or less and the total number of votes cast for the nomination or election of all candidates is no more than 400; or (3) if the difference between the votes cast for that candidate and for a winning candidate is less than one-half of 1 percent, and the total number of votes cast for the nomination or election of all candidates is more than 400 but less than 50,000.

When filling multiple seats, the one-half of 1 percent difference is between the elected candidate with the fewest votes and the non-elected candidate with the most votes. In the circumstances described above, the city must conduct and pay for the recount. A losing candidate who lost by a greater number of votes may request a recount, but the candidate must generally pay the expenses. In addition, any individual who was eligible to participate in the voting may contest the election or nomination of any individual by filing a petition in district court within seven days after the council has completed the canvass. Because the grounds and proceedings in election contests are highly technical, the assistance of an attorney experienced in election contests is useful.

## RELEVANT LINKS:

[Minn. Stat. § 204C.36, subd. 3.](#)

LMC information memo, [City Special Elections](#).

[Minn. Stat. § 205.10, subd. 1. A.G. Op. 472-0 \(Mar. 20, 1961\).](#)

[Minn. Stat. § 412.551, subd. 1. Minn. Stat. § 205.07, subd. 3. Minn. Stat. § 475.58, subd. 1.](#)

See LMC information memo, [City Special Elections](#).

[Minn. Stat. § 205.10, subds. 1, 5.](#)

A discretionary recount for a ballot question may occur when the difference between the votes for and the votes against the question is less than or equal to one-half of 1 percent. Any person eligible to vote on the question may request the recount in writing and filed with the filing officer of the city. A petition containing the signatures of 25 voters eligible to vote on the question must accompany the request. When the city receives a written request where the difference in votes for and against is less than or equal to one-half of 1 percent, the city must conduct the recount at its expense. If the city receives a written request and the difference in votes for and against is larger, the person requesting the recount must also file a bond, cash, or surety to cover the costs of the recount. Filing of the written request, petition, and any bond, cash, or surety required must occur during the time for notice of contest for the election for which the recount is requested.

## VI. Special elections

The law relating to special elections generally applies to both statutory and home rule charter cities. Two general types of special elections exist: elections on questions and elections to fill vacancies. The League's information memo, *City Special Elections*, discusses both types of special elections in more detail.

### A. Elections on questions

The law allows special elections only on questions the council is authorized by law or charter to submit to the voters. Statutory and charter cities must find specific authorization for a special election in state law or the city charter. For example, a statutory city must, under certain circumstances, hold a special election on a proposal to change the form of government, on an ordinance changing the year of the city's elections, to fill a vacancy on city council and on certain proposed bond issues.

If a statutory city has the authority to hold a special election on any particular matter, the Handbook usually notes this fact under the discussion of that subject. *City Special Elections* also includes several charts that show the authority to hold special elections. If the legality of a special election is uncertain, the council should consult the city attorney.

State law prohibits city councils from submitting a ballot question at a general or special election unless all the election-related deadlines can be met, including publication deadlines for all required notices. While only the council may set the date for a special election, it may not use this prerogative to postpone a special election by refusing to set a date or by setting a date too near or far in the future.

## RELEVANT LINKS:

[Minn. Stat. § 205.10, subd. 3.](#)

[Minn. Stat. § 205.10, subd. 6.](#)  
[Minn. Stat. § 205.16, subd. 4.](#)

[Minn. Stat. § 412.02, subd. 2a.](#)

[Minn. Stat. § 412.02, subd. 2a.](#)

[Minn. Stat. ch. 211A.](#)  
[Secretary of State's:](#)  
[Campaign Manual.](#)

[Minn. Stat. ch. 211B.](#)  
[Secretary of State's:](#)  
[Campaign Manual.](#)

Special elections may take place on any day except Sunday or a legal holiday or within 56 days of a state general election.

A special election ordered by the city council on its own motion may be cancelled by motion of the governing body. However, the council may not cancel a special election less than 74 days before the election. If the special election is cancelled, the clerk must provide written notice to the county auditor not less than 74 days before the election.

## **B. Vacancies in city offices**

Statutory cities must hold a special election to fill a vacancy in the office of councilmember or mayor with a four-year term when the vacancy occurs before the first day to file affidavits of candidacy for the next regular city election and more than two years remain in the unexpired term. If the vacancy occurs on or after the first day to file affidavits of candidacy or when less than two years remain in the unexpired term, state law does not require a special election to fill the vacancy.

Special elections take place at the same time as a city general election, unless the council specifies, in an ordinance, the specific circumstances for holding special elections to fill vacancies at times other than at a special election held at the same time as the city general election.

## **VII. Financial reporting and campaign practices**

### **A. Campaign finance reporting**

State law limits campaign contributions and requires campaign finance reporting for candidates for city office.

Violation of these laws could result in civil or criminal penalties. The secretary of state's Campaign Manual provides the details for campaign finance limits and reporting.

### **B. Fair Campaign Practices Act**

State law regulates a variety of campaign practices for candidates for city offices. To help keep elections free of fraudulent practices, the law requires the performance of certain acts and forbids the performance of others. These laws apply to city elections unless they are inconsistent with the city charter. These laws cover candidates, corporations, committees that aim to influence voters about candidates or ballot questions, and other similar entities. The Act also covers campaign and election advertising and literature. Violations of these laws may result in civil or criminal penalties.

## RELEVANT LINKS:

[42 U.S.C.A. §§ 15301-15545.](#)  
[Minn. Stat. § 5.30.](#)  
[Minn. Stat. § 200.04.](#)

[Minn. Stat. § 204B.18, subd. 1\(c\).](#)

[Minn. Stat. § 206.57.](#)

[Minn. Stat. § 205.02, subd. 2.](#)  
[Minn. Stat. § 200.02, subd. 8.](#)

[Minn. Stat. § 410.21.](#)

[Minn. Op. Atty. Gen. 64-F \(Minn.A.G.\) \(Nov. 28, 1990\).](#)

The secretary of state's 2014 Campaign Manual provides the details on the Fair Campaign Practices Act.

## VIII. Help America Vote Act

The 2002 federal Help America Vote Act (HAVA) made federal funding available to help improve statewide election administration. Some provisions of this new complaint system apply to city officials.

Essentially, if a complaint is received regarding election activities involving city officials, the city officials are given notice and an opportunity to reach an agreement with the complainant. If an agreement cannot be reached, a hearing is scheduled, and city officials are given notice and an opportunity to participate. The secretary of state then makes a final determination, which may be appealed to district court.

If the city purchased accessible voting stations with funds from the Help America Vote Act account, the city must make these stations available to other local jurisdictions that hold stand-alone elections. The city providing the station may require the jurisdiction using the equipment to reimburse any direct actual costs incurred as a result of the equipment's use and any prorated indirect costs of maintaining and storing the equipment. The city cannot charge a rental fee or any similar use fee. The law outlines the handling of money received under this section.

After Dec. 31, 2005 (for state and federal elections) and after Dec. 31, 2007 (for city elections), polling places must have assisted voting systems that are accessible for individuals with disabilities.

An independent testing authority must certify the systems. The systems must conform to current standards for voting equipment issued by the federal Elections Assistance Commission (EAC) or other appropriate federal agency responsible for testing and certification of compliance with the federal voting system's guidelines at the time of submission of the application.

## IX. How this chapter affects home rule charter cities

City election law generally applies to all statutory and home rule charter cities. However, home rule charter cities may have additional authority in their charters dealing with the number and types of offices elected or regarding specific types of special election questions on which the voters may decide.

**RELEVANT LINKS:**

With respect to its own elections, a home rule city has considerable legislative power, and state law recognizes the provisions of a charter control as to nominations, primary elections, and elections for municipal offices. However, such charter provisions may not conflict with any general state law that clearly intends to withhold from all cities the power to regulate the particular issue.