



## INFORMATION MEMO

# City Special Elections

*Understand which election questions are authorized or required by state law and which are not. Learn about several other aspects of special elections, including the procedures to call and hold special elections; how general election law applies; the form and effect of recalls and other resident petitions; elections to fill a council vacancy; and ballot form requirements. Links to model ordinance calling for a special election at the same time as the general election.*

### RELEVANT LINKS:

[Minn. Stat. § 205.01, subd. 2.](#)

[Minn. Stat. § 200.02, subd. 4.](#)

[Minn. Stat. § 205.10.](#)

[Minn. R. 8250.1810, subp. 10.](#)

## I. Special Election Purposes

Special elections are held so local voters can weigh in on a city-specific issue. There are two basic special elections:

- An election to fill a vacancy in public office.
- An election to decide a question relating to the city that is lawfully submitted to the local voters.

For simplicity, this document uses “special election” or “ballot question” to describe any city election held to fill a vacancy or on a city-specific question. Special elections may be held at the same time as the general city or state election. Alternatively, special elections may be held at other times according to state law, as long as the city holding the election meets the timelines and posting requirements, also found in state law. City councils cannot hold special elections on questions unless authorized to do so by state law.

When a special election is held in conjunction with a regular election, it is still called a special election. In other words, a special election does not become part of the regular election just because it is held at the same time. For example, a special election to fill a vacancy has a special heading on the general election ballot that says “Special election for council member to fill vacancy in term expiring .....,”

Best practice suggests, and on some election issues the law requires, that any city holding a special election on a city-specific issue consult the city attorney as far in advance as possible.

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: 2016 City Clerk Election Guide.](#)

[Minn. Stat. § 205.16, subd. 1.](#)  
[Minn. Stat. § 473.121, subd. 2.](#)

[Minn. Stat. § 205.16.](#)

[Minn. Stat. § 205.16, subd. 4.](#)

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

[Minn. Stat. § 410.21.](#)

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

[Minn. Stat. § 473.121.](#)

## II. General election law applies

Cities must follow any requirements in the statute authorizing the special election. In addition, cities must follow general election procedures. For example, a city must ensure that all general election-related deadlines can be met before scheduling the election. For ballot question elections, consider both general election law and the specific statute authorizing the ballot question.

This means notice, publication, and posting requirements for elections on filling vacancies and ballot questions are the same as those for a general city election. Special elections on questions must be preceded by two weeks' published notice. Ten days' posted notice is optional. Fourth-class cities (under 10,000 in population) in non-metropolitan cities (generally outside of the seven-county metro area) may choose to give 10 days' posted notice instead of publishing notice. Election judges who served at the last election may serve for the special election.

When a special election is to be held at the same time as the general election, the notice of the general election and the special election may be included in the same notice. The notice should include wording to indicate that a special election will be held in conjunction with the regular election. In other words, the notice would state: the date of the election; voting hours; the locations of the polling places; the offices to be filled and the questions to be voted on in the regular election; and the offices to be filled and the questions to be voted on at the special election.

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

The notice must include the date of the election, the offices to be voted on, and the title and language for each ballot question.

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.

Where general election laws and charter provisions dealing with nominations, primary elections, and municipal office elections are inconsistent, the charter provisions control. In this case, general election laws apply only as far as they are consistent with the charter.

The same ballot publication and posting requirements also apply. At least two weeks before the election, the clerk must publish a sample ballot in the city's official newspaper. (A fourth class city not in the metropolitan county may dispense with publication).

## RELEVANT LINKS:

Minn. Stat. § 412.02, subd. 2a.  
Minn. Stat. § 205.10, subd. 2.  
Minn. Stat. § 645.44, subd. 16.  
A.G. Op. 471-M (Oct. 18, 1951).

Handbook, *Elected Officials and Council Structure and Role*.

*Accepting Council Member Resignation and Declaring a Vacancy*, LMC Model Resolution.

Minn. Stat. § 412.02, subd. 2a.  
Handbook, *Elected Officials and Council Structure and Role*, Section I-E; Section 1-F.

Minn. Stat. § 412.02, subd. 2a.  
Handbook, *Elected Officials and Council Structure and Role*, Section I-E; Section 1-F.

Minn. Stat. § 205.02, subd. 2.  
Minn. Stat. § 205.10.  
A.G. Op. 63-A-11 (Dec. 20, 1966). A.G. Op. 63-A-11 (April 24, 1979).  
Minn. Stat. § 205.02.

At least two weeks before the election, the clerk must also prepare a sample ballot and make them available for public inspection in the clerk's office.

### III. Filling Vacancies in Elective Offices

When a vacancy occurs in a statutory city council, the statutes provide that a vacancy "shall" be filled by appointment, generally indicating that the action is mandatory. The attorney general has held that it is mandatory to fill vacancies in office. In certain situations, the city must hold a special election in addition to making an appointment.

When a special election is necessary, the council must appoint a person to hold the vacant position until voters elect a candidate to serve in that position at the special election. Procedurally, the council should adopt a resolution that declares the vacancy. After considering interested and qualified residents, the council must appoint an eligible person to fill the vacancy. Where appropriate, the city council then calls for a special election.

#### A. Determining need

In deciding whether a special election is necessary in a statutory city, look at when the vacancy occurred and the amount of time left on the unexpired term. To determine if a special election is necessary, the city must answer the following two questions:

- Did the vacancy occur before the first day to file affidavits of candidacy for the next regular city election?
- Do more than two years remain in the unexpired term?

When the answer to both questions is "yes," a special election to fill the vacancy is necessary. If the answer to either or both of these questions is "no," a special election is not necessary. Where no special election is necessary, the appointed person serves for the duration of the term.

In a charter city, look to the charter to determine how a vacancy should be filled. City charter provisions may govern how to fill the vacancy over general state law. For example, if a charter provides that a vacancy is filled by appointing a replacement for the remainder of the term (regardless of when the vacancy occurs or how much time is left on the term), the charter provision overrides the requirement in state law that calls for a special election. Certain election law provisions do not apply to charter cities so charter cities should work with their city attorney on election issues.

## RELEVANT LINKS:

[Minn. Stat. § 410.33. Minn. Stat. § 412.02, subd. 2a.](#)

[Minn. Stat. § 412.02, subd. 2a.](#)

[Providing for Special Elections to Fill Council Vacancies, LMC Model Ordinance.](#)

[2017 Minn. Laws ch. 92, § 2 to be codified as Minn. Stat. § 205.10, subd. 3a.](#)

[2017 Minn. Laws ch. 92, § 2 to be codified as Minn. Stat. § 205.10, subd. 3a.](#)

If the charter is silent on how to fill vacancies, the city may follow the same process as statutory cities. Consult the city attorney for specific advice on how to fill a vacancy.

## B. Timing

A special election to fill a council vacancy may be held at or before the next regular city election. Many cities hold this type of special election at the same time as the next regular city election. In order to hold a special election before the next regular city election, the council must adopt an ordinance that specifies under what circumstances it will hold a special election to fill a vacancy before the next regular city election. The city may choose to adopt an ordinance that addresses all future special elections on vacancies.

An example of this would be an ordinance that requires a special election every time a vacancy occurs within a specified period of time before the filing period for the next regular election. A different option would be to adopt an ordinance that addresses only one particular election; this type of ordinance would not apply to all future special elections.

Generally, if an ordinance allows the city to hold a special election before the next regular city election, an election to fill a vacancy may be held on any of the days allowed by statute.

During the 2017 legislative session, uniform election dates were created for cities. Previously, cities could have special elections on any day that was not a legal holiday. Now, a special election held in a city must be held on one of the following dates:

- The second Tuesday in February.
- The second Tuesday in April.
- The second Tuesday in May.
- The second Tuesday in August.
- The first Tuesday after the first Monday in November.
- On another date if the special election is held in response to an emergency or disaster. “Emergency” means an unforeseen combination of circumstances that calls for immediate action to prevent a disaster from developing or occurring. “Disaster” means a situation that creates an actual or imminent serious threat to the health and safety of persons or a situation that has resulted or is likely to result in catastrophic loss to property or the environment.

A home rule charter city must not designate additional dates in its charter.

## RELEVANT LINKS:

[Minn. Stat. § 351.055.](#)

[A.G. Op. 471-M \(June 6, 1958\).](#)

[Handbook, \*Election Procedures\*.  
Secretary of State 2016 City  
Clerk Election Guide.](#)

[Minn. Stat. § 204D.02, subd. 2.  
A.G. Op. 471-M \(Nov. 23, 1999\).](#)

[Minn. Stat. § 205.10, subds. 1, 5.  
Minn. Stat. § 205.02, subd. 2.  
Minn. Stat. § 211A.01, subd. 2.](#)

[A.G. Op. 484e-1 \(Oct. 5, 2000\).](#)

[Minn. Stat. § 205.10, subd. 1.](#)

If it is certain that a vacancy will occur in the future and there must be a special election for the position, the city council may begin the process leading up to the special election so that a successor may be elected at the earliest possible time. For prospective vacancies that will occur as a result of a resignation, preparations for the special election may begin immediately after the written resignation is received by the council. Cities should not appoint a person to a vacancy before the vacancy exists.

### C. Election administration

A special election to fill a vacancy is administered in the same manner as a general election. This means that the same notice requirements must be followed. Similarly, filing for the office takes place in the same way for both general and special elections.

### D. Taking office

Generally, the terms of elected city offices begin on the first Monday in January following the election. However, in a special election to fill a vacancy, the new council member is eligible to qualify and take office upon receipt of an election certificate.

## IV. Special elections on ballot questions

### A. Authorized questions

State law refers to “special elections on questions,” “public questions,” and “ballot questions” when discussing citywide votes on questions voters have legal authority to decide. A “ballot question” is a proposition placed on the ballot to be voted on by the voters of one or more political subdivisions but not by all the voters of the state. The secretary of state uses the term “city question ballot” on the example ballot. This memo uses the terms “ballot question election” and “special election on a question” to refer to a local special election on a city-specific question.

All of these terms mean an election, or vote, on a city-specific issue. Even though this election may coincide with a statewide election, it is a separate or special election. One example of a ballot question is whether a city will issue licenses allowing local restaurants to sell liquor with meals on Sundays, sometimes called a “Sunday liquor” election.

Most statutes giving local voters the power to vote on a ballot question contain some additional information, from phrasing the question on the ballot to the number of votes required to pass the ballot question.

## RELEVANT LINKS:

A.G. Op. 159a-3 (May 24, 1966). A.G. Op. 476-B-2 (Apr. 29, 1954). A.G. Op. 442-A-20 (Jul. 10, 1952). LMC information memo, *Public Purpose Expenditures*. State auditor's *Statement of Position Expenditure of Public Funds on Ballot Issue Advocacy* (March, 2013). A.G. Op. (June 30, 2006) (informal letter opinion).

Minn. R. 8250.1810, subp. 10  
See Section VIII: *Ballots*.  
Minn. Stat. § 205.10, subd. 3.  
Minn. Stat. § 645.44, subd. 5.  
Minn. Stat. § 205.10, subds. 1, 5.

2017 Minn. Laws ch. 92, § 2 to be codified as Minn. Stat. § 205.10, subd. 3a.

Secretary of State 2016 City Clerk Election Guide. See also, Handbook, *Election Procedures*.

Minn. Stat. § 205.16, subd. 1.

Cities may spend a reasonable amount of money to educate voters on relevant facts relating to the ballot question. In putting out materials to educate the voters, the city cannot also promote a certain outcome of the vote. This is because cities generally cannot expend public funds to support or oppose a ballot question. However, there is a limited exception to this general rule where a state act or proposal could have a “direct and substantial effect” on the interests of a specific city. If the city is considering whether or not to spend public funds on promoting or opposing a ballot question, the city should seek specific legal advice from the city attorney.

A ballot question must have a title and the city attorney must review that title to determine whether it accurately describes the question asked; the title cannot be used on the ballot until approved by the city attorney. A special election on a ballot question may be held at the same time as a general election or at any other time allowable by law.

During the 2017 legislative session, uniform election dates were created for cities. Previously, cities could have special elections on any day that was not a legal holiday. Now, a special election held in a city must be held on one of the following dates:

- The second Tuesday in February.
- The second Tuesday in April.
- The second Tuesday in May.
- The second Tuesday in August.
- The first Tuesday after the first Monday in November.
- On another date if the special election is held in response to an emergency or disaster. “Emergency” means an unforeseen combination of circumstances that calls for immediate action to prevent a disaster from developing or occurring. “Disaster” means a situation that creates an actual or imminent serious threat to the health and safety of persons or a situation that has resulted or is likely to result in catastrophic loss to property or the environment.

A home rule charter city must not designate additional dates in its charter.

The notice of a special election (whether published or posted) must clearly state the question. As under general election law, the clerk must also publish a sample ballot at least two weeks before the election in the official newspaper, except that Fourth Class cities may dispense with publication. The clerk must post a sample ballot in the clerk’s office at least ten days before the combined special and general election and in each polling place on election day. The city must follow all other requirements for the city general election.

## RELEVANT LINKS:

[A.G. Op. 640 \(Sept. 27, 1972\).](#)  
[Minn. Stat. § 205.02, subd. 2.](#)  
[Minn. Stat. § 410.33.](#)

[Borgelt v. City of Minneapolis](#), 271 Minn. 249, 135 N.W.2d 438 (1965).  
[Alexander v. City of Minneapolis](#), 267 Minn. 155, 125 N.W.2d 583 (1963). [City of Birchwood Village v. Simes](#), 576 N.W.2d 458 (Minn. Ct. App. 1998).  
[Village of Brooklyn Center v. Rippen](#), 255 Minn. 334, 96 N.W.2d 585 (1959). [A.G. Op. 476-B-15 \(Dec. 17, 1940\)](#). [A.G. Op. 472-0 \(Mar. 20, 1961\)](#). [A.G. Op. 185b-2 \(January 19, 1956\)](#). [A.G. Op. 59a-32 \(January 25, 2002\)](#).

[Muehring v. School Dist. No. 31 of Stearns County](#), 224 Minn. 432, 28 N.W.2d 655 (Minn. 1947).

[A.G. Op. 185b-2 \(May 3, 1967\)](#). [A.G. Op. 185b-2 \(August 22, 1961\)](#).  
See LMC information memo, [Public Purpose Expenditures](#).

[A.G. Op. 63-A-11 \(Aug. 26, 1965\)](#). [A.G. Op. 185b-2 \(Jan. 19, 1956\)](#).

The law relating to ballot question elections generally applies to both statutory and charter cities. If charter provisions specifically provide for ballot question elections then, generally speaking, the city can hold the special election pursuant to the charter rather than state law. If the charter is silent on the issue, the city may apply statutory law governing special and general elections. Consult the city attorney for specific legal advice on charter interpretation.

## B. Unauthorized elections on questions

Voters and city councils often ask about holding an advisory election on controversial or politically sensitive decisions facing a city. State law governs whether a city can hold a local election on a particular topic. For statutory cities, state law explicitly gives local voters the authority to vote on certain topics. Without specific legislative authority, city councils may not hold a special election. In other words, the state legislature delegates certain powers to statutory cities; this delegation functions both as a grant of power and as a restriction. Cities possess only those powers specifically given by the state legislature or implied to carry out the delegated power. Generally speaking, without the legislative grant of specific authority a statutory city cannot act.

Therefore, the state legislature decides if local voters possess the authority to vote on city-specific issues in statutory cities. The legislature gives city councils the power to make decisions on most local issues but councils do not have the power to re-delegate this decision-making authority to local voters. Minnesota courts have determined that a city council has no authority to pass their decision-making power to voters when the legislature delegates that power solely to city councils.

In addition, a city council has no authority to spend public funds on an unauthorized special election. No matter how minimal the cost and even if money to hold an unauthorized election is donated to the city, the attorney general finds it is an invalid use of public funds. Neutral surveys sent out by a city seeking feedback from city residents on generic topics such as city services generally are not special elections.

Likewise, charter cities may hold an election on a topic only if the charter or statutory law specifically allows it. The attorney general repeatedly finds that charter cities must find specific authority for a special election in either the charter or statutory law. Best practice suggests charter cities consult the city attorney for specific legal advice and interpretation of the charter provisions relating to special elections.

## RELEVANT LINKS:

[Minn. Stat. § 412.221, subd. 33.](#)

[Secretary of State 2016 City Clerk Election Guide.](#)

Appendix A: Special elections on questions required by law.

[Minn. Stat. § 340A.504, subd. 3\(c\).](#)  
Appendix A: Special elections on questions required by law.

Appendix B: Statutorily authorized special elections called by council or subject to petition.

[Minn. Stat. § 205.10.](#)  
[A.G. Op. 476-B-15 \(Dec. 17, 1940\).](#) [A.G. Op. 472-0 \(Mar. 20, 1961\).](#)  
[Minn. R. ch. 8205.](#)  
See Section IV: *Petitions*.

[Minn. Stat. § 205.10.](#)  
[Minn. Stat. § 205.16.](#)

There are two exceptions to the rule prohibiting advisory elections. First, a statutory city council has authority to hold a special election on whether the city should join a special district or similar independent governmental body having taxing powers. This question may be submitted to city voters at a general or special election, but the results are only advisory, not binding on the council. Second, the Secretary of State's Office considers a vote to adopt a city charter an exception to the rule against advisory elections. Note that state law specifically authorizes both of these advisory elections.

## V. Types of ballot question elections

In statutory cities, and in charter cities where the charter is silent on the method, ballot question elections on authorized subjects occur in a number of ways.

### A. Ballot question elections required by law

A number of subjects require a special election before the council finalizes an action on a particular matter. The council proposes the action in a question, a proposition, or an ordinance and voters either adopt or reject the council's action.

One common example of a ballot question election required by law is the sale of intoxicating liquor on Sundays. A city may issue licenses to sell intoxicating liquor on Sundays only if the voters approve the council action at a special election on that question.

### B. Ballot question elections called by council or by petition

On other topics, there are two ways that a special election may arise:

- The council may pass, by a majority vote of a quorum, a motion calling for a special election on an authorized question.
- The council must order a vote on a ballot question if it receives a sufficient petition. State rules govern petitions.

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.



## RELEVANT LINKS:

[Minn. Stat. § 413.02.](#)  
Appendix C: Statutorily permitted special elections.

Appendix D: Council action subject to reversal by voters.

Section IV: *Petitions*.

Section IV: *Unauthorized elections on questions*.  
[Minn. Stat. § 351.02 \(5\)](#).  
[Minn. Stat. § 410.20](#).  
[Minn. Const. art. VIII, § 6](#).  
*Jacobsen v. Nagel*, 255 Minn. 300, 96 N.W. 2d 569 (1959).

[Minn. Stat. § 351.01](#).  
[Minn. Const. art. VIII, § 5](#).  
[Minn. Stat. § 410.20](#).  
*State ex rel. Martin v. Burnquist*, 141 Minn. 308, 170 N.W. 201 (Minn. 1918).  
*State ex rel. Kinsella v. Eberhart*, 116 Minn. 313, 133 N.W. 857 (Minn. 1911).

## C. Optional ballot question elections

A few statutes allow ballot question elections after receiving a petition but do not require them. Changing the name of a city is one example where the council may submit a ballot question to local voters after receiving a petition but the statute does not require it.

## D. Reverse referenda or elections to revoke council action

In narrowly applicable situations, eligible voters may petition for a special election to reverse a particular council action. Referenda are votes of the electorate on a particular subject. Because voters petition for the chance to reverse a council action, this type of special election is commonly known as a reverse referendum.

The particular statute allowing a petition to reverse the council governs these special elections. State rules govern the form of petitions. Typically, voters have only a certain number of days to submit a petition calling for a vote to reverse a previous council action. Reverse referenda are unusual; consult the city attorney for specific legal advice.

## E. Recall or removal from office

Local voters often ask if the city can hold a vote to remove a particular local official from office in a special election. As discussed previously, voters in statutory cities have only those powers delegated to them by the state legislature. Currently, voters in statutory cities have no authority to petition for, or vote on, removing an elected official from the city council. In some situations, councilmembers lose office by operation of law, for example if a person is convicted of a felony; but there is no authority to remove officers by a vote.

Charter cities may have limited authority in the charter to remove elected officials. Recall elections in charter cities are limited by the Minnesota Constitution. The charter may allow for a recall election to remove an elected official due to malfeasance or nonfeasance in the performance of his or her duties. To constitute malfeasance or nonfeasance the conduct must affect the person's performance of official duties rather than conduct that affects their personal character as a private individual. All of this is a fact specific determination so charter cities must consult the city attorney before seeking an election to recall or remove a city official from office.

**RELEVANT LINKS:**

[Minn. Stat. § 204B.071.](#)

[Minn. Stat. § 205.10, subd. 2.](#)

[Minn. R. ch. 8205.](#)

[Minn. R. 8205.1010.](#)

[Minn. R. 8205.1020.](#)

[Minn. R. 8205.1010.](#)

[Minn. R. 8205.1010.](#)

[Minn. R. 8205.1010.](#)

## **VI. Petitions**

In statutory cities, petitions submitted by voters requesting an election on a legally authorized question must comply with state law and rules. State rules set by the Minnesota secretary of state govern the form, circulation, signing, filing and inspection of petitions. If a city charter specifically addresses petitions, the charter provisions may prevail over state law and rules.

### **A. Form of petition**

Minnesota state rules include detailed requirements regarding petitions. This section is only intended as a general overview of petitions, so be sure to consult the rules when working with a petition.

A petition must be prepared on paper no larger than 8-1/2 inches wide and 14 inches long. Each petition page must have both a short title describing the purpose of the petition and a statement summarizing the purpose of the petition. For petitions seeking to get a question on the ballot, each petition page may have a statement of 75 words or less summarizing the ballot question. Each petition page must include the following statement: “All information on this petition is subject to public inspection.” The language on the petition must be no smaller than 10-point type. Petitioners may circulate photocopies of a sample petition page.

Each petition page must have no more than 10 signature lines. The signature lines must be consecutively numbered. Each signature line must have space for the date of signature; a signature; the signatory’s year of birth; printed first, middle, and last name; and residence address, municipality, and county.

Each petition page must have a signer’s oath in no smaller than 12-point bold type. The signer’s oath and the signature lines must be on the same side of the paper. If the form of the signer’s oath is not specified by statute, the following oath must be used: “I swear (or affirm) that I know the contents and purpose of this petition and that I signed this petition only once and of my own free will.”

Each petition page must include the following statement immediately above the signature lines: “All information must be filled in by person(s) signing the petition unless disability prevents the person(s) from doing so.”

## RELEVANT LINKS:

[Minn. R. 8205.1040. Minn. Stat. § 211A.01, subd. 7.](#)

[A.G. Op. 185-b \(June 15, 2007\).](#)

[Minn. R. 8205.1040.](#)

[Minn. R. 8205.1040.](#)

[Minn. Stat. § 205.10.](#)

[Minn. Stat. § 645.26, subd. 1.](#)

[Minn. Stat. § 200.039.](#)

### 1. Filing a petition

The city clerk accepts petitions as the filing officer. State law defines the “filing officer” as the officer authorized by law to accept affidavits of candidacy or nominating petitions for an office or the officer authorized by law to place a ballot question on the ballot.

The person filing the petition must submit the entire petition at one time to the clerk. The petitioners may submit the petition by mail, messenger, or similar delivery service. Filing of a petition is effective upon receipt by the clerk. Petition pages must not be altered by anyone except the clerk for verification purposes after the petition has been filed.

The clerk must provide the person filing the petition with a receipt for the petition. The receipt must include the type of petition filed; the name, address, and telephone number of the person submitting the petition; the date on which the petition was filed; and the total number of pages in the petition submitted.

### 2. Number of signatures required on petition

As used here, a “sufficient petition” means the required number of voters sign the petition. Typically, this is a percentage of voter’s signatures from a previous election. Sometimes the specific statute authorizing a petition does not indicate what percentage of voter signatures a sufficient petition needs. The default in state law requires that the petition contain the signatures of a number of voters equal to 20 percent of the total number of people who voted at the last city general election. However, a number of statutes authorizing petitions for special elections provide a different number of signatures needed for a valid petition. The more specific law prevails and acts as an exception to the general law. Practically speaking cities should consult the city attorney if a question arises regarding the number of signatures required on a petition.

### 3. Counting percentage of voters required for sufficient petitions

Even where the specific state statute lists a particular percentage of voter signatures, state law provides guidance for tabulating that percentage:

- If a statute requires that a specific number of people who voted in a previous election sign a petition then the statute must be read to mean that any currently eligible voter may sign the petition-- and their signature counts when tabulating the percentage of voter signatures required.

## RELEVANT LINKS:

[Minn. R. 8205.1050.](#)

[Anderson v. City of Duluth](#), 279 Minn. 50, 155 N.W.2d 281 (Minn. 1967). [Williams v. Donovan](#), 253 Minn. 493, 92 N.W.2d 915, (Minn. 1958).  
[Minn. Stat. § 201.091. Secretary of State Frequently Asked Questions - Petition Signatures.](#)

[Minn. R. 8205.1050.](#)

[Minn. R. 8205.1050. Minn. R. 8205.1010.](#)

[Minn. R. 8205.1050.](#)

[In re Referendum to Amend City of Grand Rapids, Minnesota Mun. Elections Ordinance No. 04-08-11](#), No. 31-CV-05-3798 (Minn. Ct. App. July 18, 2006) (unpublished decision).  
[Bogen v. Sheedy](#), 304 Minn. 62, 229 N.W.2d 19 (Minn. 1975).

[A.G. Op. 472-O \(Jul. 31, 1959\).](#)

- Thus, the statute must not be read to restrict eligibility to sign to only those individuals who were eligible to cast ballots or who actually did cast ballots in the previous election.

## 4. Sufficiency of petition

The clerk must inspect the form of the petition to determine if it complies with all form and filing requirements. The clerk need only determine substantial compliance with regard to any type size on the form. The clerk must also inspect the petition to determine whether it has been signed by the required number of signatories and whether the signatories meet the applicable eligibility requirements. The rule does not address how the clerk verifies eligibility of the signatories but case law implies checking lists of registered voters and eligibility to vote.

If the petition has not been signed by the required number of qualified signatories, the clerk must notify the person who filed the petition:

- That the petition has not been signed by the required number of signatories.
- The number of additional signatures needed for a sufficient petition.

If the time for circulating the petition has not expired, the petitioners may collect additional signatures and submit them at one time to the clerk before the circulation period expires.

If the petition satisfies the form requirements and has been signed by the required number of qualified signatories during the applicable time period, the clerk must notify the person whose name is on the petition receipt that the petition is sufficient.

The clerk must complete the verification of a petition as soon as practicable, but no later than 10 working days after the day on which the petition was filed.

Courts take notice of how difficult it is to prepare and to circulate petitions. Frequently citizens, not skilled in the technical aspects of the law, prepare such petitions. Courts typically exercise extreme caution in ruling petitions out on mere technicalities and view petitions as the result of democracy working at the grassroots level. Consider working with the city attorney on handling any petition irregularities.

## B. Petitions with no legal effect

Citizens have the right to petition the city council on any issue. Such petitions may have a political effect but unless a state statute or city charter authorizes the petition, it has no legal effect.

**RELEVANT LINKS:**

[Minn. Stat. § 204B.46.](#)  
[Minn. R. 8210.3000.](#)  
[Secretary of State 2016 Mail Voting Guide.](#)

[Minn. Stat. § 204B.46.](#)  
[Minn. R. 8210.3000.](#)  
[Secretary of State 2016 Mail Voting Guide.](#)  
[Minn. Stat. Ch. 203B.](#)

[Minn. Stat. § 204B.46.](#)  
[Minn. Stat. § 205.075,](#)  
[subd.4. Minn. Stat. §](#)  
[205A.10.](#)

[Minn. Stat. § 204B.46.](#)

[Minn. Stat. § 203B.121,](#)  
[subd. 4.](#)

[Minn. Stat. § 204B.46.](#)

In other words, the council does not have an obligation to act on the petition, but it may certainly discuss the issue.

## **VII. Ballot question special elections held by mail**

A city may hold a ballot question special election by mail. (This is a slightly different process than holding a regular election by mail.) The only required location for a polling place in a ballot question special election held by mail is the office of the county auditor or city clerk. No offices may be voted on. Notice of the election must be given to the county auditor at least 74 days prior to the election. The special mail ballot procedures must be posted at least six weeks before the election.

The city clerk must mail ballots by nonforwardable mail to all registered voters in the city no earlier than 46 days or later than 14 days before a special election on a question. No later than 14 days before the election, the clerk must make another mailing of ballots to those voters who registered to vote after the initial mailing, but before the 20th day before the election. Eligible voters who are not registered at the time the ballots are mailed may still apply for ballots in the same manner that one applies for an absentee ballot under Chapter 203B.

The clerk must appoint a ballot board. The board may consist of staff trained as election judges. Election judges must be from different major political parties unless the law provides otherwise. The ballot board examines the return envelopes and marks them “accepted” or “rejected” within three days of receipt if there are 14 or fewer days before the election, or within five days of receipt if there are more than 14 days before election day.

If the ballot is accepted, the clerk must mark the roster to indicate the voter has cast a ballot in that election. After the close of business on the seventh day before the election, the accepted return envelopes may be opened, duplicated as needed, initialed by the ballot board, and deposited in the ballot box. In all other respects, state election laws governing deposit and counting ballots applies. No vote totals may be made public before the close of voting on election day.

If an envelope has been rejected at least five days before the election, the ballots in the envelope must remain sealed and the clerk must provide the voter with a replacement ballot and return envelope. If the ballot is rejected 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 that the voter’s ballot has been rejected. The official must document the attempts to contact the voter.

## RELEVANT LINKS:

[Minn. Stat. § 204B.18, subd. 1\(b\).](#)  
[Help America Vote Act, Public Law 107-252, 301\(a\)\(3\)\(B\).](#)  
[Minn. Stat. § 204B.36, subd. 1.](#)  
[Secretary of State 2016 City Clerk Election Guide.](#)  
[Secretary of State Sample General Election Ballot.](#)  
[Sample General Election Ballot Explanatory Notes.](#)

[Minn. Stat. § 206.90, subd. 1.](#)

[Minn. Stat. § 206.90, subd. 6.](#)  
[Minn. Stat. § 204B.36, subd. 1.](#)  
[Minn. R. 8250.1810.](#)

[Secretary of State 2016 City Clerk Election Guide.](#)

[Minn. Stat. § 205.02, subd. 2.](#)

[Minn. Stat. § 206.90, subd. 6.](#)

## VIII. 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 the AutoMARK™ systems and because every voter must use the same ballot, all cities must now use optical scan ballots for all elections.

An optical scan voting system is an electronic voting system where the voter records votes by marking with a pencil or other device, including an electronic ballot marker, a ballot on which the names of candidates, office titles, party designation in a partisan primary or election, and a statement of any question accompanied by the words “Yes” and “No” are printed.

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. Ballots are no longer printed on blue or green paper. 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.

Contact the county election official to coordinate ballot responsibilities. During state election years, the county auditor must coordinate city and township ballot preparation. The auditor provides specific instruction to cities as to ballot preparation.

There are certain election law provisions that may not apply to charter cities so charter cities should work with their city attorney on formatting the ballots.

### A. Offices

When more than one of the following offices is on the ballot, the offices must appear in this order:

- FEDERAL OFFICES.
- STATE LEGISLATIVE OFFICES.
- CONSTITUTIONAL AMENDMENTS.
- COUNTY OFFICES AND QUESTIONS.
- CITY OFFICES AND QUESTIONS.
- TOWN OFFICES AND QUESTIONS.
- SCHOOL DISTRICT OFFICES AND QUESTIONS.

**RELEVANT LINKS:**

[Minn. R. 8250.1810.](#)

[Minn. R. 8250.1810.](#)  
[Minn. Stat. § 205.17, subd. 5.](#)

[Minn. R. 8250.1810.](#)

Handbook, *Election Procedures*, Section III-F Ballots.  
[Minn. Stat. § 204B.36, subd. 2.](#)  
[Minn. Stat. § 206.90, subd. 6.](#)

[Minn. R. 8250.1810.](#)

- SPECIAL DISTRICT OFFICES AND QUESTIONS.
- JUDICIAL OFFICES.

The name or number of the appropriate municipality, school district, or special district may be added directly under the types of offices. Election rules further spell out how this section of the ballot must be designed, as well as the order of offices and questions under each general category.

When a special election is held in conjunction with a regular election, the vacant offices must be listed with the offices of the same type but after any offices for which candidates will be elected for a full term.

The names of the candidates to fill a vacancy in the office of a council member in a statutory city shall be listed under the separate heading “Special election for council member to fill vacancy in term expiring .....,” with the date of expiration of the term and any other information necessary to distinguish the office. Under the heading for the office of mayor shall be the words “To fill vacancy in term expiring .....,”

For charter cities, consult the charter to see if the charter provides the process for special election candidates to be placed on the ballot. If the charter is silent, the city may follow the provisions for statutory cities. Consult the city attorney for specific legal advice.

Under each of the offices listed above, one of the following instructions must be printed:

- VOTE FOR ONE TEAM
- VOTE FOR ONE
- VOTE FOR UP TO . . . (followed by the number of candidates to be elected).

Below the instruction, the candidates’ names should be listed. Below the name of the last candidate for each office, there must be write-in lines equal to the number of candidates to be elected for that office, allowing voters to write in the names of persons not on the ballot. The line for write-in votes must contain the words “write-in, if any.” If no one has filed for an office, only write-in lines appear below the title of that office in a number equal to the candidates to be elected for that office.

**B. Questions**

Ballot questions appear after offices on an optical scan ballot. The heading must read “CITY QUESTIONS” and be printed in uppercase letters. Below this caption, the instructions must read: “To vote for a question, fill in the oval next to the word “YES” for that question. To vote against a question, fill in the oval next to the word “NO” for that question.”

## RELEVANT LINKS:

[Minn. R. 8250.1810.](#)

[Minn. R. 8250.1810.](#)

[Minn. Stat. § 204B.36, subd. 3.](#)  
[Minn. Stat. § 206.90, subd. 6.](#)  
[Minn. R. 8250.1810.](#)

[Minn. Stat. § 275.60.](#)

[Minn. Stat. § 275.61, subd. 1.](#)  
[Minn. Stat. § 275.61.](#)

[Minn. Stat. § 200.02, subds. 3, 5.](#)  
[Handbook, \*Election Procedures\*.](#)  
[Secretary of State 2016 City Clerk Election Guide.](#)  
[Secretary of State Sample Primary Ballot.](#)  
[Sample Primary Ballot Explanatory Notes.](#)

Depending on the type of ballot used, the instructions may instead read: “To vote for a question, complete the arrow next to the word ‘YES’ on that question. To vote against a question, complete the arrow next to the word ‘NO’ on that question.”

When there is more than one question on the ballot, each question must be designated by a number. Each question must be labeled “CITY QUESTION” followed by the number assigned to the question.

The city clerk or council must also provide a title for each question on the ballot. The title must not contain more than 10 words.

The city attorney must review the title to determine whether it accurately describes the question asked and the title cannot be used on the ballot until approved by the city attorney. The title must be printed in uppercase letters and must be printed above the question to which it refers. The body of the question must be printed in uppercase and lowercase letters.

A concise statement of the question must be printed on the ballot. The words “yes” and “no” must be printed as close to their corresponding vote targets as possible. Be sure to check the statute that authorizes the ballot question to see if the statute specifies how the question must be asked.

Any question submitted to the voters that authorizes issuing a general obligation bond, a property tax levy, or tax rate increase must include on the ballot the following notice, in bold type: “BY VOTING ‘YES’ ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.” This statement is printed in addition to any other provisions that govern the contents of ballots questions. Where the question is about issuing debt obligations, the statement may be supplemented by a description of revenues pledged to payment of the obligations that are intended as the primary source of payment.

Any ballot questions about a levy must state the maximum amount of the increased levy as a percentage of market value and the amount that will be raised by the new referendum tax rate in the first year it is to be levied. This does not apply to tax levies for the payment of debt obligations that are approved by the voters after June 30, 2008.

### C. Primary ballots

Some cities hold primary elections for city offices. In a primary election, voters choose the nominees for the offices to be filled at a general election. When a city with primaries holds a special election to fill a vacancy, a special primary may be necessary. Optical scan primary ballots are very similar to general election optical scan ballots.



## RELEVANT LINKS:

[Minn. Stat. § 204C.34.](#)

Handbook, *Election Procedures*.  
Secretary of State 2016 City Clerk Election Guide.

[Minn. Stat. § 204C.36, subd. 3.](#)

[Minn. Stat. § 204C.36, subd. 3.](#)

Handbook, *Election Procedures*.  
[Minn. Stat. § 204B.40.](#)  
Handbook, *Records Management*. General Records Retention Schedule for Minnesota Cities (May 2017).

## IX. After the election

### A. Ties

Under Minnesota law, when an election results in a tie, state law requires the canvassing board to declare the winner of the tie “by lot.” By lot means determining the winner of a tie by any game of chance in which both candidates have an equal chance of winning—like flipping a coin or drawing straws.

### B. Recounts

As with any election, a special election candidate may request a recount. Any candidate or voter may also contest the special election. A recount or contest of a special election should be handled in the same manner as a regular election contest

A discretionary recount may be conducted at city expense for a ballot question when the vote is close, meaning a difference between the votes for and the votes against the question is less than or equal to one-half of one percent of the total votes counted for that question or 10 votes or less when the number of votes cast on that question is 400 or less.

The recount may be requested by any person eligible to vote on the ballot question and must be accompanied by petition signed by 25 voters also eligible to vote on the question. When the written request is received and the difference between the votes for and the votes against is less than that mentioned above, the city must recount the votes for the question at its own expense. If the difference is greater, the person requesting the recount must also file a bond, cash, or surety in an appropriate amount set by the council. The written request, petition, and any bond, cash, or surety must be filed during the time for notice of contest for the election for which the recount is requested.

### C. Other procedures

The same post-election steps and procedures that the city follows for general elections should also be followed after a special election. The city clerk must retain all special election materials returned to them after any election. State law and the records retention schedule require retention of election materials for at least 22 months from the date of that election unless otherwise ordered by a court order. If someone challenges the results of a special election in an election contest, all materials involved must be retained for 22 months or until the contest has been finally determined, whichever is later.

**RELEVANT LINKS:**

Abstracts filed by canvassing boards must be permanently retained by the officer with whom the abstracts are filed. Sealed envelopes containing voted ballots must be retained unopened, unless law otherwise provides. The ballots must be stored in a secure location. The clerk must not permit any voted ballots to be tampered with or defaced.

## **X. Conclusion**

Conducting elections is one of the most important responsibilities local officials have, particularly city clerks. Working through both state election law and the specific statute authorizing a special election provides cities guidance on how to hold special elections and hear directly from local voters on city special election issues.

## Appendix A: Special elections on questions required by law

Topic	Statute	Procedure	Other information
Issuance of general obligation bonds (commonly called GO bonds).	<a href="#">Minn. Stat. § 475.57-.59.</a>	When council resolves to issue such bonds it must submit the question to the voters at a general or special election. If it fails, the question must not resubmit for 180 days.	Notice of election may contain one or more ballot question for acquisition, construction, or improvement of any facilities at one or more locations. Ballot question shall state maximum amount and purpose of the proposed bond issue.
May city with municipal liquor store issue licenses to sell on-sale intoxicating liquor to hotels, clubs and restaurants.	<a href="#">Minn. Stat. § 340A.601, subd. 5.</a>	Special election required before city can issue certain on-sale private licenses in cities with a municipal liquor store.	Commonly known as “split liquor” election. (For sample ballot, see LMC information memo, <i>Liquor Licensing and Regulation.</i> )
License to sell intoxicating liquor on Sundays.	<a href="#">Minn. Stat. § 340A.504, subd. 3(c).</a>	City may issue Sunday liquor license only if vote on question passes at general or municipal election.	See LMC information memo, <i>Liquor Licensing and Regulation.</i>
Imposition of local sales tax permitted by special law.	<a href="#">Minn. Stat. § 297A.99, subd. 3.</a>	Council adopts specific resolution on local sales tax.	Question must be submitted to voters at general or special election before approval to collect the tax is requested from the state legislature.
Increase or decrease number of city council members.	<a href="#">Minn. Stat. § 412.02, subd. 6.</a>	Council must submit question to voters to increase or reduced the number on council to 7 or 5 members.	Council adopts ordinance at least 60 days before the next regular city election. Ordinance must include a schedule of new elections and terms. Change effective if majority of those voting on the question are in favor of it.
Combining cities.	<a href="#">Minn. Stat. § 465.82.</a> <a href="#">Minn. Stat. § 465.84.</a>	During 1 <sup>st</sup> or 2 <sup>nd</sup> year of cooperation, special election must be held on combination.	Vote held according to general election law, on same day in each city. May repeat election once in following year if it fails.
Charter election.	<a href="#">Minn. Stat. § 410.10.</a>	Notice of election must contain complete charter; publish once a week for two successive weeks in the official newspaper or legal newspaper of general circulation.	See statute for ballot question. Charter election must be held within 6 months of delivery of draft charter to council. If no general or city election, within 90 days of delivery of the draft charter.
Construct, purchase or lease municipal gas, light power, or heat utility.	<a href="#">Minn. Stat. § 412.321, subd. 2.</a>	Questions on the establishment of utility and bond questions may be combined or separated. Election may apply to a particular utility service or group of services.	Law requires separate election for manufacture of gas or generation of electricity unless voters approved both generation or production and distribution within the last two years.
Lease, sale of abandonment of municipal utility.	<a href="#">Minn. Stat. § 412.321, subd. 4.</a>	Must submit ordinance or resolution to lease, sell or abandon to voters at general or municipal election.	Approval requires 2/3 vote of those voting on the question. Election may apply to any specific part of utility as described in ordinance or resolution.
City acquisition of a public utility.	<a href="#">Minn. Stat. § 216B.45-.46.</a>	Council resolution effective only if ratified by voters at a special election.	Election must be held not less than 60 or more than 120 days after council resolution.

Municipal utility in first class cities.	<a href="#">Minn. Stat. § 452.11 - .12.</a>	City of first class must submit question to voters before acquiring or constructing any public utility. May submit question of certificates at same election.	Council must pass ordinance stating question or proposal. Vote must occur within 30 days of ordinance passage.
Municipal telecommunications services.	<a href="#">Minn. Stat. § 237.19.</a>	Must submit question before purchase, acquisition or construction.	Approval by majority of those voting unless proposal is to construct a new exchange where an exchange already exists, then 65% must approve.
Additional tax levy pursuant to this law.	<a href="#">Minn. Stat. § 275.73.</a>	Council shall provide for submission of question on additional levy at a general or municipal election.	Notice of election must be given and must state purpose and maximum yearly amount of the additional levy.
Tax levy for municipal airport.	<a href="#">Minn. Stat. § 360.037.</a>	Must submit question on ordinance or resolution to voters unless bonds are authorized by a resolution of the city council adopted by a vote of not less than 60 percent of its members.	Ordinance or resolution referred to must list amount of levy or bonds.
Establishment of merit system.	<a href="#">Minn. Stat. § 44.02.</a>	Any 2 <sup>nd</sup> , 3 <sup>rd</sup> or 4 <sup>th</sup> class city must submit a question to voters on an ordinance establishing a merit system.	See statute.
Amendment to merit system.	<a href="#">Minn. Stat. § 44.03.</a>	No police or fire civil service commission may, by ordinance, exclude a position unless 2/3 of voters so vote.	See statute.

## Appendix B: Statutorily authorized special elections called by council or petition

Note: In all statutory and home rule charter cities, the primary, general and special elections held for choosing city officials and deciding public questions relating to the city shall be held as provided in Chapter 205. Some of the provisions in Chapter 205 do not apply in charter cities if the charter specifically addresses them. Minn. Stat. 205.02, subd. 2.

Topic	Statute	Procedure <sup>1</sup>	Percentage of voters required on petition	Other information
Fate of municipal liquor store with net loss in any 2 of 3 consecutive years.	<a href="#">Minn. Stat. § 340A.602.</a>	Council motion or upon sufficient petition council shall submit question to voters.	5% of registered voters.	Continue or discontinue special liquor store within 30 months of election, according to results.
Additional on-sale liquor licenses above statutory limit.	<a href="#">Minn. Stat. § 340A.413, subd. 3(a).</a>	Council decision to submit question to voters.	30% of voters in last city election or 200 registered voters residing in the city whichever is less.	See statute for ballot question. Clerk must certify results of a referendum within ten days of the election.
Issuing intoxicating liquor licenses.	<a href="#">Minn. Stat. § 340A.416.</a>	Upon sufficient petition, council must submit question to voters.	30% of voters in last city election or 200 registered voters residing in the city whichever is less.	See statute for ballot question. Clerk must certify results of a referendum within ten days of the election.
Abolition or transfer of a statutory city utilities commission.	<a href="#">Minn. Stat. § 412.391.</a>	Council decision or upon sufficient petition council must submit question to the voters.	15% of the electors voting at the last previous city election.	See statute for ballot questions.
Adoption or abandonment of an optional plan A or B form of government.	<a href="#">Minn. Stat. § 412.551.</a>	Council decision or upon sufficient petition council must submit question to the voters. <sup>2</sup>	15% of the electors voting at the last previous city election.	See statute for ballot questions. City clerk must file certificate of election (including question submitted and vote on question) with county auditor and secretary of state.
Authorization or revocation of a tax levy for a municipal band, orchestra or chorus.	<a href="#">Minn. Stat. § 449.10 –.13.</a>	Upon sufficient petition, council must submit question to voters. Authority may be revoked by same process.	10% of voters from last general municipal election.	See statute for ballot questions.

<sup>1</sup> Council may initiate many of these actions and act as prescribed by the various statutes cited. However, if a sufficient petition is submitted the council generally must put the question to voters on a separate ballot in a municipal election.

<sup>2</sup> City must wait three years after adoption of plan A or B before submitting question to voters proposing abandonment of either plan.

Dissolution of a city.	<a href="#">Minn. Stat. § 412.091.</a>	Voters petition of Office of Strategic and Long-Range Planning (now the Chief Administrative Law Judge). <sup>3</sup> . If sufficient, director holds hearing orders election.	1/3 of those voting in the last preceding city election.	The ballots used at such election shall bear the printed words, "For Dissolution" and "Against Dissolution," with a square before each phrase in which the voter may express a preference by a cross. See statute for additional procedures.
Charter amendment.	<a href="#">Minn. Stat. § 410.12.</a>	Charter commission motion or upon sufficient petition charter, commission must submit question on amendment.	5% of the total votes cast at the last previous state general election in the city.	Many procedural requirements in the law. See statute and Chapter 4 of the Handbook for Minnesota Cities.
Abolition of police civil service commission.	<a href="#">Minn. Stat. § 419.16 –17.</a>	Sufficient petition initiates election on question to abolish.	25% of voters in last general city election.	See statute for ballot question. Commission abolished only if two-thirds of votes cast in election are in favor of abolishment.
Abolition of firefighter's civil service commission.	<a href="#">Minn. Stat. § 420.14 -15.</a>	Upon sufficient petition - unless commission has existed for 8 years continuously.	25% of voters in last general city election.	See statute for ballot question. Commission abolished only if two-thirds of votes cast in election are in favor of abolishment.
Abandonment of merit system.	<a href="#">Minn. Stat. § 44.16.</a>	Council may initiate or upon sufficient petition, council must submit question to voters.	25% of electors voting at the last general municipal election.	See statute for ballot question. Requires majority vote to abolish unless board supplanted a police or firefighter's civil service commission – then two-thirds vote to abolish required.
City consolidation.	<a href="#">Minn. Stat. § 414.041.</a>	Council resolution of each affected city or upon sufficient petition council must submit question to voters.	A number equal to 5% of resident voters who voted for governor at the last general election.	See statute for information petition must include regarding the consolidation and names of parties entitled to mailed notice; Petitioners serve copies of the petition or resolution on all of the included municipalities.
Resolution to create a hospital district.	<a href="#">Minn. Stat. § 447.31, subd. 3.</a>	Council of each city so resolves or upon sufficient petition council must hold special election within 30 days of petition filing.	10% of the number of voters voting at the last general election.	See statute for ballot language. Petition must present text of proposed resolution and request an election. Special election may be held at a regular municipal election that falls within the 30-day period.
Separate assessment and election districts from town.	<a href="#">Minn. Stat. § 412.081, subd. 2.</a>	Council motion or upon sufficient petition council must submit question to voters.	25% of those voting at the last preceding city election.	Election judges present certificate of result to council. Clerk must file certificate with the county auditor and, if vote to separate prevails, with the secretary of state. Separation takes effect 30 days from date of election.

<sup>3</sup> In 2003, Reorganization Order No. 188, transferred all functions of the Director of the Office of Strategic and Long Range Planning pertaining to municipal boundary adjustments, to the Department of Administration. In 2005, Department of Administration Reorganization Order No. 192, transferred all functions to the Commissioner of Administration to the Office of Administrative Hearings. The Chief Administrative Law Judge is the ultimate decision-maker in boundary adjustment proceedings.

Discharging a charter commission.	<a href="#">Minn. Stat. § 410.05, subd. 5.</a>	Petition requesting a referendum to discharge the charter commission is filed with city clerk.	At least 5 % of the registered voters in the city.	Commission is discharged if a majority of the votes cast support the referendum.  Another charter commission may not be formed sooner than one year from the date of discharge.
Establishing public library service (alternative to Minn. Stat. 134.07).	<a href="#">Minn. Stat. § 134.08, subd. 1.</a>	Upon sufficient petition, council must submit question of establishment or provision of public library services to the voters at the next general election.	Not less than 5 % of the number of persons who voted at the last general election in the city or county.	If a majority of the votes cast on the question are in the affirmative, the governing body shall establish the library or shall provide public library service and levy an annual tax for its support.
Discontinuing public library service.	<a href="#">Minn. Stat. § 134.08, subd. 2.</a>	Upon sufficient petition, the question of discontinuance of public library service shall be placed on the ballot at the next general election.	Not less than 5 % of the number of persons who voted at the last general election in the city or county.	Only applies if the public library service was established under Minnesota Statute § 134.08, subd. 1.  If a majority of the votes cast on the question are in the affirmative, the library service is discontinued.
Starting mosquito abatement program.	<a href="#">Minn. Stat. § 18G.14, subd. 3.</a>	Upon sufficient petition, council must hold public hearing. If council does not adopt resolution to start program within 15 days, council must order a vote to be taken at next regular election.	5% or 250 property owners whichever is less.	Ballot must read ""Shall the (governmental unit) of ..... engage in mosquito abatement?" If a majority votes in favor, the council must take appropriate mosquito abatement actions as soon as possible. If the proposal is rejected, the question must not be resubmitted to voters for 2 years.
Discontinuing mosquito abatement program that began after election.	<a href="#">Minn. Stat. § 18G.14, subd. 4, 5.</a>	Upon sufficient petition, council must hold public hearing. If council does not adopt resolution to discontinue program within 15 days, the council must order a vote to be taken at next regular election.	5% or 250 property owners whichever is less.	The ballot must read "Shall the (governmental unit) of ..... discontinue mosquito abatement?" If a majority votes in favor, the council must take appropriate actions to discontinue mosquito abatement as soon as possible. If the proposal is rejected, the question must not be resubmitted to voters for 2 years.

## Appendix C: Statutorily permitted special elections

Topic	Cite	Procedure	Other information
Special (local) laws. <sup>4</sup>	<a href="#">Minn. Stat. § 645.021, subd. 2.</a>	Council may submit to voters question on adopting special law.	City must file certificate with secretary of state before first day of next regular legislative session. Certificate must state facts necessary to validate approval, including a copy of the resolution or if submitted to the voters, votes for and against.
Changing city name.	<a href="#">Minn. Stat. § 413.02.</a>	When 20% of voters petition for name change, council may submit question to voters at general or special election.	City may by ordinance change the name if majority vote in favor of changing city name. Applies to charter and statutory cities.
Funding community hospital from municipal liquor funds.	<a href="#">Minn. Stat. § 447.045.</a>	Council may submit question to voters on contributing from city liquor store funds toward acquisition, construction, improvement, maintenance and operation of community hospital.	Held at a general or municipal election.
Divert public works reserve fund.	<a href="#">Minn. Stat. § 471.57, subd. 3.</a>	Council may submit question to divert funds for other purpose.	Must state how funds will be used.

<sup>4</sup> See INFORMATION BRIEF: Minnesota House of Representatives Research Department, [Special Legislation](#).



## Appendix D: Council action subject to reversal by voters

Action	Cite	Procedure	Percentage of voters required on petition	Other information
Council adopts ordinance increasing initial council salaries.	<a href="#">Minn. Stat. § 412.021, subd. 5.</a>	Voters must submit petition within 10 days of ordinance publication.	10% of the number of voters at the incorporation election.	Held at general or special election.
If councils of 2 or more cities resolve to consolidate.	<a href="#">Minn. Stat. § 414.041, subd. 6.</a>	Special election required where councils of combining cities approve consolidation but voters petition to vote on the action.	Number equal to 10% of voters who voted for governor at the last general election.	Petition must be submitted within 90 days of vote to consolidate or date of final order, whichever is later.
Council adopts charter amendment by ordinance.	<a href="#">Minn. Stat. § 410.12, subd. 7.</a> <a href="#">Minn. Stat. § 410.12</a>	Petition submitted within 60 days of passage and publication of ordinance.	At least 5 % of the registered voters in the city or 2,000, whichever is less.	If the city has a system of permanent registration of voters, only registered voters are eligible to sign the petition.
Council adopts ordinance to change year of city election.	<a href="#">Minn. Stat. § 205.07, subd. 3.</a>	Within 180 days after passage and publication of ordinance, petition requesting a referendum on the ordinance may be filed with city clerk.	10% of total number of votes cast at the last municipal general election.	Special election must be held within 60 days.
Council action to buy real property where contract price on certain contracts exceeds 0.24177 percent of the estimated market value of the city.	<a href="#">Minn. Stat. § 412.221, subd. 2.</a>	Special election must be held if, after publication of council resolution to purchase property by such contract, voters petition for an election the action.	Number equal to 10% of the number of voters at the last regular city election.	
If council resolves to issue certificates of indebtedness in an amount that exceeds 0.25 percent of the estimated market value of taxable property in the city.	<a href="#">Minn. Stat. § 412.301.</a>	Special election must be held if, after publication of council resolution to issue such certificates, voters petition for an election on the action.	A number of voters equal to 10% of those voting at the last regular municipal election.	A majority of the voters must approve a question on issuance of such certificates at a regular or municipal election.
If a city council passes, a resolution to issue bonds to fund or refund bonds where the outstanding gross debt as defined in law exceeds 1.62% of its estimated market value.	<a href="#">Minn. Stat. § 475.58, subd. 2.</a>	Special election must be held if, after publication of council resolution to issue such bonds, voters petition for an election on the action.	10 voters must submit petition for an election on issuing the bonds within ten days after the second publication of the resolution.	City shall issue no such bonds unless a majority of the electors approve the action.
If a city council passes a resolution to issue bonds for street reconstruction.	<a href="#">Minn. Stat. § 475.58, subd. 3b.</a>	City may issue bonds only after successful vote on the question to issue same.	5% of votes cast in last general city election.	Petition must be filed with city clerk within 30 days of public hearing.
City council passes a resolution-increasing levy for port authority over statutory amount of 0.01813% of estimated market value.	<a href="#">Minn. Stat. § 469.053, subd. 5.</a>	Law requires specific published notice, public hearing and 2 <sup>nd</sup> published notice. Petition for election must come within 30 days of 2 <sup>nd</sup> notice.	5% of voters in the last general election.	Commissioner of revenue prepares suggested form of question. Referendum must occur at municipal or general election before Oct. 1 of applicable tax year.

City council passes a resolution-increasing levy for economic development over statutory amount of 0.01813% of estimated market value.	<a href="#">Minn. Stat. § 469.107, subd. 2.</a>	Law requires specific published notice, public hearing and 2 <sup>nd</sup> published notice. Petition for election must come within 30 days of 2 <sup>nd</sup> notice.	5% of voters in the last general election.	Notice of election must state the purpose and amount of the levy. The election must be held at a general or municipal election.
Any two or more cities and towns pass resolution by 2/3 vote of council members to create a hospital district. <sup>5</sup>	<a href="#">Minn. Stat. § 447.31.</a>	Resolution takes effect in 40 days unless, in that time, a petition for a referendum is filed with the city.	5% of the number of voters voting at the last election of officers.	
City council votes to establish, by a two-thirds vote of all its members, by ordinance or resolution an infrastructure replacement reserve fund and may levy for such fund.	<a href="#">Minn. Stat. § 471.572, subd. 2.</a>	Resolution or ordinance takes effect unless, within 10 days, a petition for an election is filed with the clerk.	A number of qualified voters greater than 10% of the number who voted in the city at the last general election.	Vote held at regular or municipal election. See statute for publication and notice requirements.
City council passes by 3/5 vote <sup>6</sup> to issue capital improvement bonds for specific purposes.	<a href="#">Minn. Stat. § 475.521, subd. 2(c).</a>	Published notice and public hearing required. Petition for election must come within 30 days after hearing.	5% of votes cast in last general city election.	Cannot issue bonds after receiving petition until approved by a majority vote.

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<sup>5</sup> Except a city of the first class. See Minn. Stat. § 4447.31, subd. 1.

<sup>6</sup> In the case of a governing body having more or less than five members, the bonds must be approved by a vote of at least two-thirds of the members of the governing body. Minn. Stat. § 475.521, subd. 2.