

2022 City Election HANDBOOK



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Introduction

This handbook is intended to provide basic information on both city general and special elections.

Regular city elections are held on the second Tuesday in June during even numbered years.¹ This election is held in conjunction with the state and county primary election. A city special election is any election that occurs at any time other than a regular city election. Some cities will work with their county auditors to include city election questions at the general election for federal, state, and county elections in November of even numbered years. Even though the November election is a regularly scheduled election for federal, state, and county elections, it would be a special election for any city races or questions.

Regular City Elections

For regular city elections, cities are required to enter an agreement with the county for use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices, and the splitting of election expenses.²

In the last few years, there has been a lot of personnel turnover in both the county auditor and city auditor offices across the state. City auditors should reach out to county auditors before each city general election to make sure everyone understands how the city auditor and the county auditor plan to work together to make sure the June election runs smoothly. The best practice is to have an election agreement in writing for both the city and the county to refer to. See Appendix A for an example. **Please note that cities should make sure to discuss with their county auditors the need to include city election questions on a scannable ballot. That is the only way city election results are included on the North Dakota Secretary of State's webpage.**

The responsibility for regular city elections is split between the North Dakota Secretary of State, the county auditor and the city auditor. Ultimately, the North Dakota Secretary of State's office is responsible for ensuring the integrity of North Dakota elections.

City Special Election

A city special election is generally the responsibility of the city auditor; however, the North Dakota Secretary of State still has general authority to ensure the fairness of the election. Also, some cities enter a contract with the county to administer a special election when a city needs to have a special election. Special elections are conducted in the same manner as regular city elections.³

Cities may have special elections for various reasons including:

¹ NDCC 40-21-02.

² NDCC 40-21-02.

³ NDCC 40-21-16.

- to authorize certain property tax levies (Library Levy⁴, Public Recreation System Levy⁵, Capital Improvement Levy⁶, Programs for Older Persons Levy⁷, Aid for Public Transportation System Levy⁸, Municipal Art Council Levy⁹);
- to issue certain types of bonds (debt)¹⁰;
- to increase the city debt limit¹¹;
- to adopt or amend a home rule charter¹²;
- to purchase water for distribution¹³;
- for a recall election¹⁴;
- to fill a vacancy on city council or city commission¹⁵;
- for a referred or initiated ordinance¹⁶; and
- for authority to offer a property tax exemption for new and expanding retail businesses.¹⁷

⁴ NDCC 40-38-02, 57-15-10.

⁵ NDCC 40-55-08, 40-55-09, 57-15-10.

⁶ NDCC 57-15-38, 57-15-42.

⁷ NDCC 57-15-10, 57-15-56.

⁸ NDCC 57-15-10, 57-15-55.

⁹ NDCC 40-38.1-02, 57-15-10.

¹⁰ See e.g., NDCC 21-03-11.

¹¹ ND Const. art. X, § 15.

¹² NDCC ch. 40-5.1.

¹³ NDCC 40-33-16.

¹⁴ NDCC 44-08-21.

¹⁵ NDCC 40-08-08, 40-08-16, 40-09-10.

¹⁶ NDCC ch. 40-12.

¹⁷ NDCC 40-57.1-03.

Glossary

Canvassing Votes – The canvass is the official tally of the votes in the election. An appointed canvassing board meets for the purpose of making sure to account for every ballot cast and to ensure that every valid vote is included in the election totals.

City Regular Election – The city regular election occurs on the second Tuesday in June in even numbered years (2022, 2024, 2026). This election occurs in conjunction with the state primary election.

City Special Election – Any election that the city holds that is not on the second Tuesday in June in even numbered years is a city special election.

Polling Place – A polling place is the location where voting takes place during an election.

Unexpired 2 Year Term – When a vacancy in a city elected office occurs during the first two years of a term due to death or resignation and the vacancy is filled by appointment, the office appears on the ballot as an unexpired 2-year term to elect someone to hold the office until the term of the office expires.

Election Timeline – Generally

The following is a step-by-step description of the election process. Due to city elections being held with county elections, there are some slight differences between general elections and special elections as noted in the paragraphs.

1. **Candidates may Begin Circulating Petitions.** For regular city elections, candidates may begin circulating petitions for signatures on January 1. For special elections, candidates may begin circulating petitions for signatures thirty days before the filing deadline. Any signatures collected before the time allowed cannot be counted towards the minimum number of signatures required for a name to be on the ballot.¹⁸
2. **Prepare Election Notice.** No later than 100 days (preferably more than 100 days) before a regular election and as soon as practicable for a special election, an election notice shall be prepared showing the offices expected to be filled and the election questions.¹⁹ For regular elections, this information should be confirmed with the county auditor to make sure the information they have is correct.

Any city with a website needs to make updated versions of the election notices regularly available on the website.²⁰

3. **Publish Notice of Filing Deadline.** Thirty days before the filing deadline for candidate petitions to be filed, an official notice of the deadline (94 days before the election), along with a list of offices to appear on the ballot must be published in the newspaper.²¹ The city may have an agreement to combine this notice with the county filing deadline notice for regular city elections. See Appendix B for example.
4. **Designate Polling Places.** No later than 64 days before the election, the polling place/places within a precinct must be designated by the city governing board. The polling locations chosen must be accessible to people with disabilities and people who are elderly.²²

Please note that the polling place may be changed when there is good and sufficient reason. If a polling place is changed under this provision, the name and location of the new polling place must be prominently posted on or near the main entrance of the prior polling place.²³ Some cities delegate the authority to designate polling places to the county.

¹⁸ NDCC 40-21-07.

¹⁹ NDCC 16.1-07-30.

²⁰ NDCC 16.1-07-30(4).

²¹ NDCC 40-21-02.

²² NDCC 16.1-01-03.

²³ NDCC 16.1-04-02.

5. **Filing Deadline.** By 4 p.m. local time, 64 days before the election, the language for the public question and/or the candidate nomination petitions and statements of interests must be filed with the city auditor.²⁴
6. **Arrangement of Offices on the Ballot.** The city auditor shall arrange the offices upon the ballot in the order in which they are named in the statutes.²⁵
7. **Arrangement of Names on the Ballot.** The city auditor shall determine the arrangement of names of the candidates upon the ballot by conducting a drawing immediately after the candidate filing deadline. The city auditor shall set the date, time and location for the drawing and notice of the drawing must be given to the candidates involved.²⁶
8. **Transmittal to County Auditor.** Each city that enters an agreement with the county must notify the county auditor, in writing, immediately after the filing deadline of the offices to be filled at the election, the candidates and order of the candidate names for the ballot and any measures to appear on the ballot.²⁷
9. **Update Election Notice.** At least 55 days before the election, the election notice must be updated with the certified candidates for each office and ballot measure questions to appear on the ballot. The notice must be made publicly available.²⁸
10. **Campaign Disclosure Statement.** Between the 39th day before the election and the 31st day before the election, a candidate in a city over 5,000 people must file a campaign disclosure statement with the city auditor covering all contributions received from January 1st through the 40th day before the election.²⁹
11. **Absentee Ballots Transmitted to Eligible Overseas Military Voters and their Families.** Not later than 45 days before the election, the election official shall transmit ballots and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.³⁰
12. **Absentee Ballots Available for Members of the Public.** At least 40 days before the election, the election officer shall have printed and have available for distribution to the public a sufficient number of absent voter's ballots for the use of all voters likely to require such ballots for that election.³¹
13. **Appoint Election Officials.** At least 10 days before the election, when an election is not held in conjunction with the county, the city must appoint one inspector and two judges of election for each polling place. In voting precincts in which over 300 votes are cast in any previous election, the governing body may appoint two election clerks for each polling place. In a precinct in which 75 votes or fewer were cast in the last election, the

²⁴ NDCC 40-21-02(5).

²⁵ NDCC 40-21-08.

²⁶ NDCC 40-21-08.

²⁷ NDCC 40-21-02(5).

²⁸ NDCC 16.1-07-30.

²⁹ NDCC ch. 16.1-08.1.

³⁰ NDCC 16.1-07-23.

³¹ NDCC 16.1-07-04.

governing body of the city may appoint one inspector and one judge for each polling place.³² For elections held with the county, election officials may be shared.

14. **Publication of Election Notice.** Ten days before the election, publication of the time and place of the election must be given in the official newspaper.³³ The city may have an agreement to combine this notice with the county election notice for regular city elections. See Appendix C for an example of an election notice.
15. **Election Day.** For cities holding an election in conjunction with an agreement with the county, generally the county will handle election day procedures. For city elections not held in conjunction with the county, the governing body needs to follow the same procedures as elections for the purpose of electing county officials. There is a guide for election officials on the North Dakota Secretary of State's webpage at <https://vip.sos.nd.gov/pdfs/Portals/2018%20Election%20Officials%20Manual.pdf>.

Polls must be open at 9 a.m. but can be open as early as 7 a.m. The polls must remain continuously open until 7 p.m. but can be open until 9 p.m. The times are to be designated by resolution of the governing body.³⁴

16. **Canvassing Board Meets.** For any city election not held in conjunction with a county election, the city canvassing board meets on the thirteenth day following the election. The city canvassing board must be composed of the city auditor, city attorney, mayor or commission president, and two members of the city commission or council, or appointed replacement of any of these named officials. An individual who served on the election board for the election may not serve on the canvassing board. A city canvassing board must have at least five members.³⁵
17. **Notification of Elected Candidates.** Within five days after the result of the election is declared, also known as the canvassing board has issued its report, the city auditor must notify candidates elected. The best practice is to notify candidates in writing of their election and to enclose an oath of office. See Appendix D for an example notice letter.
18. **Oath of Office.** Elected candidates shall take the oath of office and file it with the city auditor within 10 days after notice of election has been given. Refusal to take the oath of office shall be deemed refusal to serve and therefore failure to qualify for the office.³⁶
19. **Taking Office.** For regular city elections, newly elected officials take office on the 4th Tuesday in June.³⁷ For special elections, newly elected officials take office once they are elected and qualified. That means that the canvassing board has issued its report and the newly elected official has taken the oath of office and filed it in the city auditor's office.³⁸

³² NDCC 40-21-02.

³³ NDCC 40-21-02.

³⁴ NDCC 16.1-01-03

³⁵ NDCC 16.1-15-17, 40-21-16.1.

³⁶ NDCC 40-13-03.

³⁷ NDCC 40-14-03, 40-15-03

³⁸ NDCC 40-04.1-01, 40-08-06, 40-08-14, 40-09-04.

Additionally, the city auditor shall notify the North Dakota Supreme Court of the election of any municipal judge.³⁹

³⁹ NDCC 40-21-14

2022 City Election Timeline

January 1 – *Candidates May Begin Circulating Petitions.* A city election candidate may begin collecting signatures on a nominating petition.⁴⁰

By March 4 (ideally sooner) - *Prepare Election Notice and Transmit to the County Auditor.* No later than 100 days before a regular election, an election notice shall be prepared showing the offices expected to be filled and the expected election questions. This information should be confirmed with the county auditor to ensure the correct information is in the State’s system. The information from the election notice is used by the North Dakota Secretary of State to publish an election notice online. The earlier city auditors can send this information to the county auditors, the better.⁴¹

By March 11 - *Publish Notice of Filing Deadline.* Thirty days before the filing deadline for candidates’ names to be printed on the ballot (April 11, 2022), an official notice of this deadline must be published in the official newspaper.⁴² See Appendix B for example.

Reminder: Whenever, for any reason, vacancies exist on a city council or commission which require an unexpired term to be filled by election, the unexpired term must be designated on the ballot separate from any other regular term or terms that may also appear on the ballot. Candidates seeking nomination are required to indicate whether they are seeking a regular term of office or an unexpired term of office on their nominating petitions.⁴³

By April 11 – *Designate polling places.* No later than 64 days before the election the polling place/places within a precinct must be designated by the city governing board. Polling locations must be accessible by people with disabilities and people who are elderly.⁴⁴ Please note that the polling place may be changed when there is good and sufficient reason. If a polling place is changed under this provision, the name and location of the new polling place must be prominently posted on or near the main entrance of the prior polling place.⁴⁵ Some cities delegate the authority to designate polling places to the county.

April 11 - 4 p.m. (Local Time)– *Filing Deadline.* Deadline for candidates for city offices to file their election petitions is 4 p.m. local time 64 days before the election. The city auditor shall determine the arrangement of the names of the candidates upon the ballot by conducting a drawing immediately after the deadline for the filing of nomination petitions. The auditor shall set the date, time, and location for the drawing and give advance notice to the candidates involved.

⁴⁰ NDCC 40-21-07.

⁴¹ NDCC 16.1-07-30.

⁴² NDCC 40-21-02.

⁴³ NDCC 40-08-06.

⁴⁴ NDCC 16.1-04-02(2).

⁴⁵ NDCC 16.1-04-02(4).

Immediately after this drawing, the city auditor shall notify the county auditor of the offices to be filled, the candidate names and of any measures to appear on the city election ballot.⁴⁶

May 6 and May 13 – Campaign Contribution Statement. The first and last day for city office candidates in cities with a population of 5,000 or above, to file pre-election campaign contribution statements before incurring late filing penalties.⁴⁷

June 3 – Election Notice. The election notice, including election time, place and offices to be filled, must be published at least ten days before the election. (It is suggested that this be done earlier). The city may have an agreement to combine this notice with the county’s election notice.⁴⁸

June 14 – Election Day. City election is held in conjunction with the state primary election except in certain home rule cities.⁴⁹

June 27 - Canvassing Board Meets. Thirteen days after election the canvassing board meets. Generally canvassing the vote is handled by the county canvassing board for combined elections.⁵⁰

Within five days after the result of the election is declared - Notification of Elected Candidates – once the canvassing board has issued its report, the city auditor must notify candidates who were elected. The best practice is to notify candidates in writing of their election and to enclose an oath of office.⁵¹ **See Appendix D for an example notice letter.**

Note: Due to a legislative change, the canvassing board meeting is later than normal starting in 2022. It is recommended that city auditors call the candidates that appear to have won the election prior to the canvassing board issuing its report.

June 28 - Newly Elected Officials Take office. Newly elected city commission and council members take office on the fourth Tuesday in June.⁵²

June 28 – Organization Meeting in City Council Cities. On the fourth Tuesday in June after an election, the mayor, with the approval of the city council, shall appoint the following officers: city auditor, city attorney, city engineer, and such other officers as the city council deems necessary. The city council, by a majority vote, may dispense with any appointive office and provide that the duties of that office be performed by others.⁵³ At the organization meeting, the members of the

⁴⁶ NDCC 40-21-02, 40-21-07, 40-21-08

⁴⁷ NDCC ch. 16.1-08.1.

⁴⁸ NDCC 40-21-02.

⁴⁹ NDCC 40-21-02.

⁵⁰ NDCC 16.1-15-17 and 40-21-02(3).

⁵¹ NDCC 40-21-14.

⁵² NDCC 40-14-03, 40-15-03.

⁵³ NDCC 40-14-04.

city council shall elect a president and a vice president who shall hold their respective offices until their successors are elected at the organization meeting following the next biennial election.⁵⁴

June 28 - *Organization Meeting in City Commission Cities*. At the first meeting after the newly elected city commissioners take office, the board of city commissioners shall appoint the following officers: a treasurer, an auditor, an attorney, one or more assessors, a city health officer who shall be a physician, a street commissioner, a chief of the fire department, a chief of police, one or more police officers, a city engineer, a board of public works, and such other officers or boards as the board of city commissioner may deem necessary. The board of city commissioners, by a majority vote, may dispense with any appointive office and provide that the duties of that office be performed by other officers, boards, or committees.⁵⁵ At the organization meeting, the commission shall elect a vice president who shall perform the duties of the president in the absence or disability of the president.⁵⁶

⁵⁴ NDCC 40-08-10, 40-08-11.

⁵⁵ NDCC 40-15-05.

⁵⁶ NDCC 40-09-09.

Eligibility for Elected City Elected Office

City Council and City Commission

No person is eligible to hold an elective city council or city commission office unless that person is a qualified elector of the city and has been a **resident of that city for at least nine months** before the election and cannot be in default to the city.⁵⁷ A qualified elector must also be:

1. a citizen of the United States; and
2. eighteen years of age or older.⁵⁸

Further, a person sentenced for a felony to a term of imprisonment, during the term of actual incarceration, cannot be a qualified elector.⁵⁹

City council candidates must be residents of their wards, unless council members are elected at large.⁶⁰

A candidate for the city council may run for either the office of mayor or council member but not both at the same election. A candidate for the city commission may run for either the office of city commissioner or the office of president of the board of city commissioners but not both in the same election. A candidate may run for only one office in a city at any given election.⁶¹

Park District

Members of the board of park commissioners must be electors of the city. In other words, he or she must be a resident of the city for 30 days, a citizen of the United States, and eighteen years of age or older.⁶²

Further, a person sentenced for a felony to a term of imprisonment, during the term of actual incarceration, cannot be a qualified elector.⁶³

Municipal Judge

For cities that have municipal judges and have a population of five thousand or more people, the judge shall be an attorney licensed to practice law in this state, unless no person so licensed is available in the city. In a city with a municipal judge and a population of less than five thousand people, the municipal judge may be, but is not required to be an attorney licensed to practice law in this state, nor shall he or she be required to be a resident of the city in which he or she is

⁵⁷ NDCC 40-13-01.

⁵⁸ NDCC 16.1-01-04.

⁵⁹ NDCC 12.1-33-01.

⁶⁰ NDCC 40-08-05.

⁶¹ NDCC 40-21-07.

⁶² NDCC 40-49-07, 16.1-01-04.

⁶³ NDCC 12.1-33-01.

to serve. In a city with a population of less than 5,000 people, the city may require by resolution or ordinance that the judge be licensed to practice law.⁶⁴

⁶⁴ NDCC 40-14-01, 40-15-01, 40-18-01.

Pre-Election

Offices on Ballot

A. City Council/City Commission

Mayors, city council members, commission presidents, and commissioners serve four-year terms. Those terms are staggered so that approximately one-half of the city governing board is up for election at each election. The city auditor will need to determine which of the city governing board's offices are to be on the ballot for the election.

Please note that anytime a vacancy on the city governing board was filled by appointment and there is time remaining on the term, the office must appear on the ballot and be set out separately as a two-year unexpired term.⁶⁵

B. Board of Park Commissioners

Members of the board of park commissioners serve four-year terms. Those terms are staggered so that in park districts with five member boards, two commissioners are elected at one election and three commissioners are elected at the next election. For three member boards, one commissioner is elected at one election and two commissioners are elected at the following election.⁶⁶

C. Municipal Judges

In cities with a municipal court, the term of office for the municipal judge is four years.⁶⁷

Notices and Publications

Prior to the election, several different election notices need to be prepared and some of them need to be published in the city's official newspaper. Keep in mind that the notices in law set the minimum notices required. Many cities post election information on city websites and on city social media pages. Information on the notices and publications required by law are found on the election timelines on pages 7-13.

Election Officials

A. Appointment of Election Officials

For regular and special city elections not held under an agreement with the county, at least ten days before the election, the city governing body shall appoint for each polling place:

- One inspector; and

⁶⁵ NDCC 40-08-06, 40-08-08,40-08-14, 40-08-16,40-09-04, 40-09-10.

⁶⁶ NDCC 40-49-05.

⁶⁷ NDCC 40-14-02, 40-15-02.

- Two judges.

In precincts where over 300 ballots were cast in any previous election, the governing body may also appoint two election clerks.

In any precinct in which 75 or fewer votes were cast in the last city election, the governing body may appoint for each polling place:

- One inspector; and
- One judge.⁶⁸

B. Qualifications of Election Officials

Election inspectors, judges and clerks must be qualified voters of the polling places in which they are assigned to work unless all options have been exhausted. No individual may serve as a member of the election board or as a poll clerk who has anything of value bet or wagered on the result of an election; is a candidate in the election; or is the husband wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate in that election.⁶⁹

A student enrolled in high school or college in North Dakota who is at least sixteen years of age is eligible to be appointed as a poll clerk if the student possesses the following qualifications: (1) Is a United States citizen; (2) Is a resident of North Dakota and has resided in the precinct at least 30 days before the election; and (3) Is a student in good standing attending a secondary or higher education institute.⁷⁰

C. Compensation for Election Officials

Election officials must be paid at least the state minimum wage. If any of the election workers attended election training in the six months prior to a special election, those workers must be paid at least 25% more than the state minimum wage.⁷¹

D. Election Official Oath

Prior to beginning duties on election day, the election officials shall take and subscribe the following oath:

I do solemnly swear (or affirm as the case may be), that I will perform the duties of inspector, judge, or clerk according to law and to the best of my ability, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same.

⁶⁸ NDCC 40-21-02.

⁶⁹ NDCC 16.1-05-02 and 40-21-13.

⁷⁰ NDCC 16.1-05-02.

⁷¹ NDCC 16.1-05-05.

The oath may be taken before any officer authorized by law to administer oaths or, if no officer is present, the inspector or election judges shall administer the oath to each other and to the poll clerks. The individual administering the oath shall cause an entry thereof to be made and subscribed by that individual and prefixed to each pollbook.⁷²

E. Election Official Resources

The North Dakota Secretary of State's office has several resources for election officials available online at www.vote.nd.gov under the "Election Officials" tab. Every election official should be provided a copy of the Election Official Manual.

Set Polling Locations

No later than 64 days before the election the polling place/places within a precinct must be designated by the city governing board. The polling locations chosen must be accessible to the disabled and the elderly.⁷³

Please note that the polling place may be changed when there is good and sufficient reason. If a polling place is changed under this provision, the name and location of the new polling place must be prominently posted on or near the main entrance of the prior polling place.⁷⁴

Nominating Petition and Statement of Interest Filing

The deadline for candidates for city offices to file their election petitions with the city auditor is at 4 p.m. local time 64 days before the election. Mailed petitions must be in the possession of the city auditor by 4 p.m. local time on filing deadline as well.⁷⁵ City auditors should make sure their offices are open at 4 p.m. local time on the filing deadline for candidates to file their nominating petitions. This is to avoid any issues that may arise if someone is unable to file a petition right at 4 p.m.

In addition to the nominating petition form, candidates need to file a statement of interest form with the city auditor's office. Both forms are available on the North Dakota Secretary of State's webpage at <https://vip.sos.nd.gov/pdfs/Portals/running-city.pdf>.

⁷² NDCC 16.1-05-02(3).

⁷³ NDCC 16.1-04-02(2).

⁷⁴ NDCC 16.1-04-02.

⁷⁵ NDCC 40-21-07.

Number of Signatures Required

Nominating petitions must be signed by not less than 10 percent of the number of qualified voters who voted for that office in the last city election. However, not more than 300 signatures may be required.⁷⁶ How to calculate this number is best explained through an example:

In 2020, a city had 2 city council positions on the ballot for four-year terms. There was a total of 250 votes for those 2 city council positions during the election. Each of those city council positions counts as an “office.” So, first we divide 250 (total number of votes) by 2 (number of offices) to get the total number of votes for each office. That gives us 125 votes for each office.

$$\begin{array}{r} 250 \text{ (Total Number of Votes for City Council)} \\ \div \quad 2 \text{ (Number of offices)} \\ \hline 125 \text{ (Votes for office)} \end{array}$$

A candidate is required to get signatures equal to 10% of the qualified voters for that office. In other words, we multiply 125 (number of votes for the office) by 10% which equals 12.5 signatures.

$$\begin{array}{r} 125 \text{ (Votes for office)} \\ \times \quad .10 \text{ (Percentage required)} \\ \hline 12.5 \text{ (Signatures needed)} \end{array}$$

Cities always round the number of signatures downward to avoid setting a larger burden than is in state law for a candidate to place his or her name on the ballot. Thus, under this example, a candidate is required to file a petition with 12 signatures to get his or her name on the ballot.

Withdrawal of Petition

A candidate may withdraw his or her nominating petition any time before the nominating petition filing deadline.⁷⁷

Verifying Petitions

Once the nominating petitions are filed, the city auditor must verify the petitions. This process requires ensuring the petition has the required number of signatures and that the addresses of the people signing the petition are within the city boundaries. Property tax records may be used to help with this process. Just a reminder, individuals signing the petition are not required to own property in the city, only to be a resident of the city. Consistent criteria should be used for reviewing all signatures on petitions.

⁷⁶ NDCC 40-21-07.

⁷⁷ NDCC 40-21-07.

Drawing for Order of Names on the Ballot

Immediately after the filing deadline, and once all petitions have been verified, the city auditor shall conduct a drawing to determine the order of the names on the ballot. Candidates shall be given advance notice of the drawing.⁷⁸

Notification of County Auditor

For elections held in conjunction with the county, immediately after the filing deadline and drawing, the city auditor shall notify the county auditor of the offices to be filled at the election (including the candidates on the ballot for those positions in the order those candidates' names will appear on the ballot) and any ballot measures that will appear on the ballot.⁷⁹

The more quickly a city auditor can send city election information to the county auditor, the easier it is for the county auditor to comply with his or her election deadlines. After the nominating petition filing deadline, the county auditors only have about two weeks to get every ballot in the county put together, proofread, and printed to comply with federal law.

⁷⁸ NDCC 40-21-08.

⁷⁹ NDCC 40-21-02.

Running for City Elected Office

Getting on the Ballot

For a candidate to get his or her name on the ballot, he or she must file **both** a nominating petition and a statement of interest form with the city auditor.

Nominating petitions require signatures from no less than 10 percent of the number of qualified voters who voted for that office in the last city election. However, not more than 300 signatures may be required. Nominating petitions may be signed by qualified voters who reside within a ward or precinct if elected by ward or within the corporate limits if elected at large. Voters may sign nominating petitions for more than one candidate. Nominating petitions must be filed before 4:00 p.m. local time on the 64th day before the election. In other words, nominating petitions must be in the physical possession of the city auditor by 4:00 p.m. on the filing deadline.⁸⁰

Every candidate for elective office in a city shall file a statement of interest with the city auditor at the time they file their nominating petition. The statement of interest applies to the candidate and the candidate's spouse and must include:

1. The name of the business or employer and an identification of the principal source of income of both the candidate and the candidate's spouse.
2. The name of each business or trust, not the principal source of income, in which the person making the statement, and that person's spouse, have a financial interest.
3. A list of the associations or institutions with which the person making the statement, and that person's spouse, are closely associated, or for which they serve as a director or officer, and which may be affected by their actions as an officeholder.
4. The identity by name of all business offices, business directorships, and fiduciary relationships the person making the statement, and that person's spouse, have held in the preceding calendar year.⁸¹

Nominating Petitions and Statement of Interest Forms are available on the North Dakota Secretary of State's webpage at <https://vip.sos.nd.gov/pdfs/Portals/running-city.pdf>.

Campaign Contribution Statement Candidate Filing

Candidates in cities with a population of 5,000 or more must file campaign contribution statements with the city auditor 31 days before the election, covering contributions received between January 1 and 40 days before the election. Late filing fees start accruing if the statements are filed after the due date. There are also special requirements to file a supplemental contribution statement within 48-hours following receipt of a contribution or aggregate contribution from a contributor which is in excess of \$500. Finally, there is a requirement to file a year-end report.⁸²

⁸⁰ NDCC 40-21-07.

⁸¹ NDCC 16.1-09-03.

⁸² NDCC ch. 16.1-08.1.

The Campaign Disclosure Statement form is available on the North Dakota Secretary of State's webpage at <http://www.nd.gov/eforms/Doc/sfn53970.pdf>.

Campaign Do Nots

If you are a candidate for a city elected office:

- Do not use any governmental services or property for political purposes.⁸³
- Do not give, sell, or wear political badges, buttons, or insignia within 100 feet from the entrance to a room containing the polling place while it is open for voting.⁸⁴
- Do not allow government employees to work on your campaign while at work.⁸⁵
- Do not pay another person for: (1) loss or damage suffered due to attendance at the polls; (2) registering; (3) expense of transportation to or from the polls; (4) personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.⁸⁶
- Do not serve on an election board or have a relative serve on an election board.⁸⁷
- Do not give anything of value, or promise to give anything of value, to another in return for the other's promise to vote or withhold his vote for or against any candidate.⁸⁸

⁸³ NDCC 16.1-10-02.

⁸⁴ NDCC 16.1-10-03

⁸⁵ NDCC 16.1-10-02.

⁸⁶ NDCC 16.1-10-06.1.

⁸⁷ NDCC 16.1-05-02(2).

⁸⁸ NDCC 12.1-14-03.

Publication of Minutes

Every four years, cities must put the question on the ballot of whether the minutes of the governing body will be published in the city's official newspaper. The next time this question will be on the ballot is 2024.

If voters vote in favor of publishing the minutes, within seven days of each meeting, the minutes or a summary of the minutes showing the substantive actions taken at the meeting needs to be provided to the newspaper. Roll call votes must be included but can be shown as unanimous when appropriate. A list of individual checks written by the city and approved by the governing body, showing the payee and the amount of each check, must be published. Employee salary checks do not need to be published if the city publishes an annual salary schedule. Minutes may be labeled as being published subject to the governing body's review and revision.⁸⁹

⁸⁹ NDCC 40-01-09.1.

Election Day

Poll Opening and Closing

Polls must be opened at 9:00 a.m. but can be open as early as 7:00 a.m. The polls must remain continuously open until 7:00 p.m. but can be open until 9:00 p.m. The times are to be designated by resolution of the governing body.

All electors standing in line to vote at the time the poll is set to close must be allowed to vote; however, electors arriving after closing time may not be allowed to vote.⁹⁰

Election Day Procedures

Conducting voting and keeping poll lists are governed as nearly as possible under the laws applicable to the election of county officers.⁹¹ The North Dakota Secretary of State has compiled a Manual for election officials to follow for election day. It is available at <https://vip.sos.nd.gov/pdfs/Portals/2020%20Election%20Officials%20Manual.pdf>.

⁹⁰ NDCC 16.1-01-03.

⁹¹ NDCC 40-21-13.

Post-Election Day

Canvassing Board

Canvassing votes at city elections is governed as closely as possible by the laws that apply to the election of county officers.⁹² The canvassing board meets on the 13th day following the election.

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For elections held in conjunction with the county, typically cities have an agreement with the county to share canvassing boards. For a city election not held in conjunction with a county election, the canvassing board must be composed of the city auditor, city attorney, mayor or commission president, and two members of the city council or city commission or appointed replacements of any of these officials. An individual who served on the election board may not also serve on the canvassing board for the election. The city canvassing board must be comprised of at least five members.⁹⁴

Canvassing Board Meeting

The purpose of the canvassing board meeting is to certify the election results. At the meeting the members of the committee will be sworn in, review the ballot certifications from each precinct, review absentee ballots and review and process set aside ballots. Once all those steps are complete the final vote totals are prepared and signed. See Appendix E for an example canvassing board meeting agenda, an example oath, and an example election certification.

Reminder: This meeting needs to comply with North Dakota open meeting laws, meaning notice of meeting must be provided and minutes of the meeting must be kept.

Recounts

After the Canvassing Board issues its report, a determination must be made on whether a vote recount is required or whether a candidate may demand a recount. An automatic recount occurs when an individual fails to be elected by a 0.5% or less of the vote cast for the candidate receiving the most votes for the office. A candidate can demand a recount if an individual fails to be elected by more than 0.5% but less than 2% of the vote cast for the candidate receiving the most votes for the office sought. A candidate must demand a recount within three days of the canvassing board meeting.

For ballot questions, measures or bond issues, an automatic recount will occur if the issue was decided by a margin equal to or less than 0.25% of the total votes cast for and against the question.⁹⁵ There is no demand recount.

⁹² NDCC 40-21-13.

⁹³ NDCC 16.1-15-17.

⁹⁴ NDCC 40-21-16.1.

⁹⁵ NDCC 16.1-16-01.

If recount questions arise, the North Dakota Secretary of State Recount Guidelines should be reviewed on the North Dakota Secretary of State's webpage at <https://vip.sos.nd.gov/pdfs/Portals/recountGuidelines.pdf>.

Tie Votes

If a vote recount results in a tie vote, the winner must be determined by a drawing of names in the presence of the governing body of the city in a manner that the city council or city commission directs. A candidate involved in a tie vote may withdraw the candidate's name by signing a statement to that effect in the presence of and witnessed by the filing officer of the election.⁹⁶

Notification of Candidates Elected

Within five days after the canvassing report has been issued declaring the result of the election, the city auditor must notify candidates elected. The best practice is to notify candidates in writing of their election and to enclose an oath of office. See Appendix D for an example notice letter.

Additionally, the city auditor shall notify the North Dakota Supreme Court of the election of any municipal judge.⁹⁷

If the candidate won based on write-in votes, the person elected shall file a statement of interest with the city auditor, along with the written oath of office.⁹⁸ A copy of the statement of interest form could be included with the notification for those candidates who won based on write-in votes.

Taking Office

For regular city elections, newly elected officials take office on the 4th Tuesday in June.⁹⁹ For special elections, newly elected officials take office once they have been elected and qualified. That means the canvassing board has issued its report and the newly elected official has taken and filed the oath of office with the city auditor.¹⁰⁰

Organization Meeting

In city council cities, the organization meeting takes place on the fourth Tuesday in June. The mayor, with the approval of the city council, shall appoint the following officers: city auditor, city attorney, city engineer, and such other officers as the city council deems necessary. The city council, by a majority vote, may dispense with any appointive office and provide that the duties of that office be performed by others.¹⁰¹ At the organization meeting, the members of the city

⁹⁶ NDCC 40-21-17.

⁹⁷ NDCC 40-21-14.

⁹⁸ NDCC 16.1-09-02.

⁹⁹ NDCC 40-14-03, 40-15-03

¹⁰⁰ NDCC 40-04.1-01, 40-08-06, 40-08-14; 40-09-04.

¹⁰¹ NDCC 40-14-04.

council shall elect a president and a vice president who shall hold their respective offices until their successors are elected at the organization meeting following the next biennial election.¹⁰²

In city commission cities, the organization meeting occurs at the first meeting after the newly elected city commissioners take office. At the meeting, the board of city commissioners shall appoint the following officers: a treasurer, an auditor, an attorney, one or more assessors, a city health officer who shall be a physician, a street commissioner, a chief of the fire department, a chief of police, one or more policemen, a city engineer, a board of public works, and such other officers or boards as the board of city commissioner may deem necessary. The board of city commissioners, by a majority vote, may dispense with any appointive office and provide that the duties of that office be performed by other officers, boards, or committees.¹⁰³ At the organization meeting, the commission shall elect a vice president who shall perform the duties of the president in the absence or disability of the president.¹⁰⁴

Other than the requirements outlined above, the Century Code is silent about what needs to happen at the organization meeting. Many cities do a public swearing in of council/commission members at the meeting. Some of those cities ask their municipal judge to administer the oath. There are also cities that have the former council or commission meet and open the meeting to pass the responsibility to the new council or commission. It is up to the city to decide if ceremonial aspects should be added to the organization meeting.

Oath of Office

All newly elected/reelected and newly appointed/reappointed officials need to take the oath of office available on the North Dakota Secretary of State's webpage at <http://www.nd.gov/eforms/Doc/sfn11501.pdf>. The oaths of offices for all elected and appointed city officials, except the city auditor, are filed in the city auditor's office. The city auditor's oath of office is filed with the county auditor.¹⁰⁵

¹⁰² NDCC 40-08-10, 40-08-11.

¹⁰³ NDCC 40-15-05.

¹⁰⁴ NDCC 40-09-09.

¹⁰⁵ NDCC 40-13-03.

Appendix A

JOINT POWERS AGREEMENT MCKENZIE COUNTY AND THE CITY OF WATFORD CITY JOINT ELECTION AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2008, by and between the County of McKenzie, hereinafter referred to as “County” and City of Watford City, hereinafter referred to as “City”.

1. PURPOSE OF THE AGREEMENT: The purpose of this agreement is to provide the terms by which the County and the City shall coordinate the holding of City General Elections with County Primary Elections. It is further understood that if Special Elections may be held jointly in a timely manner, that such elections should be held within the terms of this agreement. It is the intent of the parties in entering this agreement to provide for the procedures to be followed relative to the scheduling and administration of such elections and to provide for the division of costs for election officials and any other monetary disbursements relative to such elections.

2. AUTHORITY: This agreement is authorized by Article VII, Section 10 of the Constitution of the State of North Dakota and North Dakota Century Code (NDCC) Title 16.1, §40-21-02(3) and Chapter 54-40.

3. PLAN: The parties agree to the following plan of implementation:
 - (a) Each entity shall be responsible for enforcement of its policies, laws and ordinances relative to the distribution and review of petitions of candidates and for the filing of said petitions in their respective offices.

- (b) The County shall provide to the City Auditor an election calendar at the time the County receives said calendar from the Secretary of the State of North Dakota.
- (c) No later than 7 days before the publication date of the notice provided for in (d) next below, the City shall provide to the County Auditor a listing of the positions to appear on the ballot and any issues to be decided.
- (d) In accordance with the requirements of NDCC §40-21-02(1), the County shall publish a consolidated notice of election and time of filing in the McKenzie County Farmer on or before the 30th day before the filing deadline. The publication requirement of NDCC §40-21-02(2) shall be included by the County Auditor in the publication required under §16.1-11-21.
- (e) No later than 55 days before the joint election, the City Auditor shall certify to the County Auditor a list of the offices and issues to be included on the ballot together with the names of those candidates who have filed for each office. If more than one candidate files for a position, the certification shall specify the order in which the names are to be listed under the office designation.
- (f) It shall be the responsibility of the County to provide all necessary supplies for the conduct of the election. In preparing the optical scan ballots for the Primary Election, the County Auditor shall include the candidates and issues as certified by the City on the ballots for the appropriate precincts.
- (g) The County shall be responsible for naming the election board, including inspectors, for the joint elections in accordance with NDCC Title 16.1.
- (h) The County shall provide and maintain the necessary poll books as required by law. The County shall provide the City with a listing of the voters in the City election within 45 days following a joint election.

- (i) The Canvassing Board required for City elections shall be the County Canvassing Board in accordance with NDCC Title 16.1.

- (j) Within 3 days after the results of an election are declared by the Canvassing Board, the County shall certify the official results to the City. The City shall be responsible for issuing a Certificate of Election to each person elected to a City Board position.

- (k) The County shall administer absentee balloting in accordance with NDCC Title 16.1. Absentee voter applications shall be available from both the County Auditor and the City Auditor for all joint elections. All absentee ballots shall be processed and counted by the County.

- (l) In the event a recount is properly demanded or is required by law according to NDCC '16.1-16-01 and §40-21-17 for a City election which has been combined with the County according to the law and this agreement, the County Auditor shall conduct the recount according to NDCC '16.1-16-01 and certify the new results of the election to the City Auditor who shall be responsible for issuing new certificates of election if applicable. In the event a tie vote is certified, it shall be the responsibility of the City to determine the winner of the contest in accordance with NDCC §40-21-17. In the event a recount is properly demanded or is required by law according to NDCC '16.1-16-01 §40-21-17 for a special City election which has not been combined with the County according to the law and this agreement, the City Auditor, to the extent applicable, shall conduct the recount and perform all duties of the County Auditor. The expenses incurred in a recount of a City election, whether or not the election was combined with the County, must be paid by the City on a warrant by the City Auditor.

- (m) It is understood by all parties that a joint Primary/City Election may, at the option of the Board of County Commissioners, be conducted by mail ballot. It

is further understood that the above provisions are consistent with the conduct of election by either mail ballot or the usual means of polling locations in the several precincts.

4. COSTS: The County and the City shall share in the savings provided by holding joint elections. The County shall pay all cost associated with the elections and the Canvassing Board. The City shall reimburse the County the actual cost of scanner and voter-assist-terminal programming for each contest/issue and for each candidate/response for the City races and issues included on the county ballot. In addition, the City will be billed \$0.35 (thirty five cents) per vote cast as a share of the other election related expenses incurred by the County. The reimbursement arrangement will be reviewed prior to each election cycle by the County Auditor, one City Auditor and one Business Manager. If it is determined that an increase is needed, the same percentage increase will be applied to all contracts in force. The County will bill the City within 14 (fourteen) days after the meeting of the County Canvassing Board.

5. DURATION: This agreement shall take effect on the day first above written and continue until December 31, 2008. Thereafter, this agreement automatically renews for an annual term commencing on January 1 and ending on December 31, unless any of the parties notify the other parties in writing of its intention to withdraw from this agreement. Such written notice must be provided on or before October 1 of the year of withdrawal.

6. AMENDMENTS: Any amendments to this agreement must be in writing and signed by an authorized representative of each party.

Attest:

Watford City Auditor

City of Watford City
By: _____
Mayor of Watford City

Dated at Watford City, North Dakota, this ____ day of _____, 2008

Attest: County of McKenzie

McKenzie County Auditor

By: _____
Board Chairman

Dated at Watford City, North Dakota, this ____ day of _____, 2008

Appendix B

NOTICE OF FILING DEADLINE

Notice is hereby given that the deadline for filing to have a candidate's name printed on the ballot for the City of [City] April 11, 2022, by 4:00 P.M. The following city offices are up for election:

[List offices]

A candidate for a city office must turn in a completed SFN 2074 Petition/Certificate of Nomination and completed SFN 10172 Statement of Interests to the City Auditor by the above deadline date and time. All forms are available from either the City Auditor or can be obtained online at <http://www.nd.gov/sos/electvote/elections/forms.html>

Appendix C

ELECTION NOTICE

Notice is given that on [Day of week], [Month] [Date], [Year], at the [polling location[s]] in the City of [City] North Dakota, an election will be held for the election of [positions on ballot and/or description of ballot question], which election will be opened [opening time] and will continue open until [closing time] of that day.

Appendix D

Notice of Election of Member

To: [Name]

You are hereby notified that at the city election held on [election date], you were elected to the office of [mayor, commission president, commissioner, council member, municipal judge], of the city of [city] for a the [term/unexpired term] ending in June [year]. You are required to take and subscribe to the enclosed oath and file it with the city auditor prior to the day you begin discharge of the duties of your office and within ten days after notice of election has been given. Refusal to take the oath of office shall be deemed a refusal to serve and your office will be considered vacant.

[Date]

_____ City Auditor

Appendix E

Sample Canvassing Board Documents

[City] Canvassing Board Agenda

[Time]

[Date]

[Location]

- 1) Roll Call
- 2) Oaths of Office
- 3) Designate chairman and recorder
- 4) Review ballot certification sheet for each precinct
- 5) Process Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) Ballots
- 6) Process absentee ballots
- 7) Process set-aside ballots
- 8) Add accepted ballots to abstract
- 9) Verify final vote totals and sign voting abstract
- 10) Adjourn

Canvassing Board Oath of Office

I, [Canvassing Board Member Name] solemnly swear that I will support the Constitution of the United States and the Constitution of the State of North Dakota and that I will faithfully discharge the duties of the office of [City] Canvassing Board in the County of _____ and State of North Dakota according to the best of my ability. So help me God.

Sworn to and subscribed before me this ____ day of _____ 2022.

Notary Public

Certification of Results

Date

[Mayor/Commission President's Name]

City of [City Name]

Address

[City], ND [Zip Code]

Dear [Mayor/Commission President]:

Please accept this as the official vote for the City of [City Name] for the [Election Date] Special Election as Officially Certified by the [City Name] Canvass Board:

City of [City Name] City Measure No. 1

Yes [Number of Votes]

No [Number of Votes]

Witness my hand and seal this [date] day of [Month], 2022

[City Auditor Name]
[City Name] Auditor