



2011 Election Manual for City Clerks

**Prepared in Cooperation with
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Introduction

You may have noticed that the 2011 Election Manual for City Clerks is considerably shorter than previous editions. This brevity is thanks to the passage of consolidated election legislation—House Bill 372—by the 2009 Idaho Legislature.

HB 372 is one of the most significant reforms to local government elections in Idaho history. The purposes of the legislation included:

- Increasing the visibility and turnout in local elections by restricting election dates to May and November each year;
- Professionalizing elections by putting county clerks in charge of running local elections; and
- Funding the effort with \$4.1 million from the state general fund adjusted annually for inflation.

The question on the minds of most city clerks is: “What is my role now in the election process?” The city clerk’s primary responsibilities will be overseeing candidate filing, forwarding information about candidates and ballot measures to the county clerk’s office, and assisting and answering questions from county election staff. A more detailed list of the city clerk’s responsibilities is provided below.

- Making the Declaration and Petition of Candidacy, and Declaration of Intent for write-in candidates, available to anyone upon request.
- Publishing a legal notice between 7 and 14 days before the filing deadline informing potential candidates about the filing deadline, the positions up for election and qualifications to run for office.
- Making sure that candidates understand and meet the qualifications to run for office.
- Verifying the information provided by candidates in their filing forms.
- Forwarding the Declarations of Candidacy/Intent to the county clerk as soon as possible.
- Providing withdrawal forms to candidates, accepting the completed forms from candidates, and transmitting these forms to the county elections office.
- Transmitting to the county elections office ballot language for any questions to be included on the ballot, such as recall, initiative/referendum, advisory questions, bonds or levies, etc.

- Ensuring the official vote tally (broken down by precinct, for cities with multiple precincts) is included in the minutes of the council meeting following the canvass of the ballots by the county commissioners.

That is the extent of the city clerk's involvement in the election process. The county clerk's office will handle everything else, including:

- Printing the ballots,
- Overseeing absentee voting,
- Selecting polling places and election staff,
- Running polling places on Election Day, and
- Counting ballots.

The county commissioners will handle canvassing the votes and establishing election precincts.

It is important to note that the cost of consolidated elections is being funded entirely by the state with \$4.1 million provided to counties annually from the state general fund. Counties are prohibited from charging cities and other local governments for any of the costs associated with local elections, with the following exceptions.

- Cities that have adopted runoff elections for mayor and/or council will pay the full cost for the county to run the election if a runoff is required.
- Cities would be required to pay ballot printing costs for any ballot measure in excess of 250 words.
- Where the city and county reach a voluntary agreement for payment of expenses, such as a city that wants to have in-person absentee voting at city hall and is willing to pay the cost.

Consolidated elections represent a dramatic change from the role that city clerks have had for decades in running city elections. It will certainly require very close cooperation and coordination between county election staff and city clerks.

We strongly recommend that all city clerks read the Idaho municipal election law (Title 50, Chapter 4, beginning on the next page) in its entirety, as well as the sections of this manual on write-in candidates; qualifications, terms, manner of filling vacancies and salary for elected officials; retention periods for election records and frequently asked questions. These will provide you with the information necessary to prepare for this year's elections.

Municipal Election Law: Idaho Code Title 50, Chapter 4

50-401. SHORT TITLE.

This chapter shall be known and cited as the "Idaho Municipal Election Laws."

50-402. DEFINITIONS.

The following words and phrases when used in this chapter, have the meanings respectively given herein.

(a) General election. "General election" means the election held on the first Tuesday succeeding the first Monday in November in each odd-numbered year at which there shall be chosen all mayors and councilmen as are by law to be elected in such years.

(b) Special election. "Special election" means any election other than a general election held at any time for any purpose provided by law.

(c) Qualified elector. A "qualified elector" means any person who is at least eighteen (18) years of age, is a United States citizen and who has resided in the city at least thirty (30) days next preceding the election at which he desires to vote and who is registered within the time period provided by law. A "qualified elector" shall also mean any person who is at least eighteen (18) years of age, is a United States citizen, who is a registered voter, and who resides in an area that the city has annexed pursuant to chapter 2, title 50, Idaho Code, within thirty (30) days of a city election.

(d) Residence.

(1) "Residence" for voting purposes, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence. In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, and motor vehicle registration.

(2) A qualified elector shall not be considered to have gained residence in any city of this state into which he comes for temporary purposes only without the intention of making it his home but with the intention of leaving it when he has accomplished the purpose that brought him there.

(3) A qualified elector who has left his home and gone to another area outside the city, for a temporary purpose only shall not be considered to have lost his residence.

(4) If a qualified elector moves outside the city, with the intentions of making it his permanent home, he shall be considered to have lost his residence in the city.

(e) Election official. "Election official" means the city clerk, registrar, judge of election, clerk of election, or county clerk engaged in the performance of election duties.

(f) Reference to male. All references to the male elector and male city officials include the female elector and female city officials and the masculine pronoun includes the feminine.

(g) Computation of time. Calendar days shall be used in all computations of time made under the provisions of this chapter. In computing time for any act to be done before any election, the first day shall be included and the last, or election day, shall be excluded. Saturdays, Sundays and legal holidays shall be included, but if the time for any act to be done shall fall on Saturday, Sunday or a legal holiday, such act shall be done upon the day following each Saturday, Sunday or legal holiday.

See the election calendar in Appendix A of this manual for the 2011 general election timeline.

Saturdays, Sundays and legal holidays are counted for the purpose of determining election deadlines—however, if a statutory deadline falls on a Saturday, Sunday or legal holiday, the deadline is moved to the following weekday.

Despite the significant changes under the consolidated elections regime, city candidate elections for mayor and council will continue to be held on the Tuesday following the first Monday in November of each odd-numbered year.

The most important provisions of this section relate to the qualifications of electors. To vote in city elections, an individual must be:

(1) at least 18 years of age,

(2) a U.S. citizen,

*(3) a resident of the city for at least 30 before the election **OR** a resident of an area that the city has annexed within 30 days of the election, and*

(4) registered to vote as provided by law.

People who own property in the city, but reside outside city limits, are not allowed to vote in city elections.

Those whose primary residence is in the area of city impact are not allowed to vote in city elections.

The voter's primary residence must be in the city in order to be a qualified city elector—if the person owns has multiple residences, their primary residence may be determined by which residence receives the Homeowner's Exemption for property tax purposes.

Registered city electors are permitted to temporarily reside outside of the city, as long as they intend to return and they do not register to vote anywhere else.

Cities are urged to refrain from annexing property in the period leading up to any city general or special election because of the difficulty it poses for counties in preparing precinct maps and poll books. Any annexations should be completed at least two months prior to the election to ensure adequate time for the county to make the necessary changes.

50-403. SUPERVISION OF ADMINISTRATION OF ELECTION LAWS BY COUNTY CLERK.

For each city, the county clerk of the county is the chief elections officer and shall exercise general supervision of the administration of the election laws in the city for the purpose of achieving and maintaining a maximum degree of correctness, impartiality, efficiency and uniformity. The county clerk shall meet with and issue instructions to election judges and clerks prior to the opening of the polls to ensure uniformity in the application, operation and interpretation of the election laws during the election.

50-404. REGISTRATION OF ELECTORS.

All electors must register before being able to vote at any municipal election. The county clerk shall be the registrar for all city elections and shall conduct voter registration for each city pursuant to the provisions of chapter 4, title 34, Idaho Code. To be eligible to register to vote in city elections, a person shall be at least eighteen (18) years of age, a citizen of the United States and a resident of the city for at least thirty (30) days next preceding the election at which he desires to vote, or a resident of an area annexed by a city pursuant to the provisions of chapter 2, title 50, Idaho Code.

Voters may register at the polls or when voting at the absentee polling place. See Idaho Code 34-408A in the section on voter registration for more information.

50-405. GENERAL AND SPECIAL CITY ELECTIONS.

(1) A general election shall be held in each city governed by this title, for officials as in this title provided, on the Tuesday following the first Monday of November in each odd-numbered year. All such officials shall be elected and hold their respective offices for the term specified and until their successors are elected and qualified. All other city elections that may be held under authority of general law shall be known as special city elections.

(2) On and after January 1, 2011, notwithstanding any other provisions of law to the contrary, there shall be no more than two (2) elections conducted in any city in any calendar year, except as provided in this section.

(3) The dates on which elections may be conducted are:

(a) The third Tuesday in May of each year; and

(b) The Tuesday following the first Monday in November of each year.

(c) In addition to the elections specified in paragraphs (a) and (b) of this subsection (3), an emergency election may be called upon motion of the city council of a city. An emergency exists when there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic or other disaster, or if it is necessary to do emergency work to prepare for a national or local defense, or it is necessary to do emergency work to safeguard life, health or property.

(4) Pursuant to section 34-1401, Idaho Code, all municipal elections shall be conducted by the county clerk of the county wherein the city lies, and elections shall be administered in accordance with the provisions of title 34, Idaho Code, except as those provisions are specifically modified by the provisions of this chapter. After an election has been ordered, all expenses associated with conducting municipal general and special elections shall be paid from the county election fund as provided by section 34-1411, Idaho Code. Expenses associated with conducting runoff elections shall be paid by the city adopting runoff elections pursuant to the provisions of section 50-612 or 50-707B, Idaho Code, or both.

(5) The secretary of state is authorized to provide such assistance as necessary, and to prescribe any needed rules or interpretations for the conduct of elections authorized under the provisions of this section.

The election dates for 2011 are: Tuesday, May 17 and Tuesday, November 8.

The election dates for 2012 are: Tuesday, May 15 and Tuesday, November 6.

*City bond, levy, initiative, referendum, liquor by the drink, advisory ballot and other elections may be held in May or November **in any year**. The election must be held on the next election date which falls more than 45 days after the election is ordered—Idaho Code 34-106(8).*

Two additional dates are available for city recall elections: the second Tuesday in March in any year and the last Tuesday in August in any year—Idaho Code 34-106(9).

50-406. METHOD OF NOMINATION — CLERK TO FURNISH PRINTED FORMS.

Candidates for elective city offices shall be nominated by declaration. The declaration shall contain the name and address of the person and the office and the term for which he is being nominated. There shall be no mention relating to party or principal of the nominee. The completed declaration of candidacy shall be accompanied by: (1) a petition of candidacy signed by not less than five (5) registered qualified electors; or (2) a nonrefundable filing fee of forty dollars (\$40.00) which shall be deposited in the city treasury.

It shall be the duty of the city clerk to furnish upon application a reasonable number of regular printed forms, as herein set forth, to any person or persons applying therefor. The forms shall be of uniform size as determined by the clerk.

Candidates for mayor and council get their name on the ballot by filing a Declaration of Candidacy indicating the office for which they are running, the term of the office, and confirming that they are qualified to hold the office, meaning they are:

At least 18 years of age,

A U.S. citizen,

The candidate's primary residence must be within the city,

The address of the candidate's voter registration must match the residence address provided on the candidate's declaration, and

The candidate must have resided in the city for at least 30 days prior to submitting their declaration.

The Declaration of Candidacy must be accompanied by one of the following:

A Petition of Candidacy signed by at least five qualified city electors, OR

A nonrefundable filing fee of \$40.

50-407. FORM OF DECLARATION OF CANDIDACY.

Declarations of candidacy and petitions of candidacy shall read substantially as herein set forth. Any number of separate petitions of candidacy may be circulated at the same time for any candidate and all petitions for each candidate shall be considered one (1) petition when filed with the city clerk. Each signer of a petition shall be a registered qualified elector.

DECLARATION OF CANDIDACY

I, the undersigned, affirm that I am a qualified elector of the City of _____, State of Idaho, and that I have resided in the city for at least thirty (30) days. I hereby declare myself to be a candidate for the office of _____, for a term of _____ years, to be voted for at the election to be held on the _____ day of _____, _____, and certify that I possess the legal qualifications to fill said office, and that my residence address is

_____.

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, _____

Notary Public

State of Idaho

County of _____ ss.

City of _____

PETITION OF CANDIDACY
OF (NAME OF CANDIDATE)
FOR OFFICE OF _____

This petition must be filed in the office of the City Clerk not earlier than 8:00 a.m. on the eleventh Monday nor later than 5:00 p.m. on the ninth Friday immediately preceding election day. The submitted petition must have affixed thereto the names of at least five (5) qualified electors who reside within the appropriate city.

I, the undersigned, being a qualified elector of the City of _____, in the State of Idaho, do hereby certify and declare that I reside at the place set opposite my name and that I do hereby join in the petition of _____, a candidate for the office of _____ to be voted at the election to be held on the ____ day of _____, ____.

Signature of Petitioner	Printed Name	Residence Address	Date Signed

STATE OF IDAHO

County of _____

I, _____, being first duly sworn, say: That I am a resident of the State of Idaho and at least eighteen (18) years of age; that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence; I believe that each has stated his or her name and residence address correctly; and that each signer is a qualified elector of the State of Idaho, and the City of _____.

Signed

Address

Subscribed and sworn to before me this ____ day of _____, ____

Signed Notary Public
Residing at
Commission expires
(Notary Seal)

The Declaration of Candidacy and Petition of Candidacy are included in Appendices D and E.

Candidates are required to certify on their Declaration of Candidacy that they are qualified to hold the office, meaning they are:

At least 18 years of age,

A U.S. citizen,

The candidate's primary residence must be within the city,

The address of the candidate's voter registration must match the residence address provided on the candidate's declaration, and

The candidate must have resided in the city for at least 30 days prior to submitting their declaration.

The candidate's name will appear on the ballot exactly as it is written on the Declaration of Candidacy. If the candidate wishes to have their nickname on the ballot, it should be in quotes between their first and last name (e.g. George "Skeeter" Johnson).

Candidates choosing to gather petition signatures need to be made aware that signature gatherers are required to certify that they are at least 18 years old, reside in Idaho, that every person signing the petition signed in their presence and that they believe those who signed the petition have correctly stated their names, residence addresses and qualifications. This certification by the signature gatherer must be notarized.

It is not required that persons gathering petition signatures be qualified city electors, as long as they are residents of Idaho.

The Declaration of Candidacy and each page of a candidate's petition must be notarized by a notary public duly recognized by the State of Idaho.

50-408 & 50-409. REPEALED.

50-410. TIME AND MANNER OF FILING DECLARATIONS.

All declarations of candidacy for elective city offices shall be filed with the clerk of the respective city wherein the elections are to be held, not earlier than 8:00 a.m. on the eleventh Monday nor later than 5:00 p.m. on the ninth Friday, immediately preceding election day. Before a candidate files a petition of candidacy with the city clerk, the petition signatures shall be verified by the county clerk in the manner described in section 34-1807, Idaho Code, except that the city clerk shall stand in place of the secretary of state. Before any declaration of candidacy and filing fee or petition of candidacy

mentioned in section 50-407, Idaho Code, can be filed, the city clerk shall ascertain that it conforms to the provisions of chapter 4, title 50, Idaho Code. The city clerk shall not accept any declarations of candidacy after 5:00 p.m. on the ninth Friday immediately preceding election day. Write-in candidates shall be governed by section 34-702A, Idaho Code, but shall file the declarations required in that section with the city clerk.

For the 2011 general city election, candidates are required to submit their Declarations of Candidacy (with the requisite fee/petition) between 8:00 a.m. Monday, August 29, 2011 and 5:00 p.m. Friday, September 9, 2011. Clerks need to keep their offices open on Friday, September 9 until 5:00 p.m. to assist candidates who have waited until the last minute to submit their Declaration of Candidacy.

*It is the city clerk's responsibility to verify that **every candidate** meets the qualifications required by Idaho law **before the accepting the Declaration of Candidacy**. Every candidate must be:*

At least 18 years of age,

A U.S. citizen,

The candidate's primary residence must be within the city,

The address of the candidate's voter registration must match the residence address provided on the candidate's declaration, and

The candidate must have resided in the city for at least 30 days prior to submitting their declaration.

The law requires petition signatures to be verified by the county clerk before the petition is submitted to the city clerk with the Declaration of Candidacy. The county clerk will attach to the petition a certification indicating the number of signatures of qualified city electors in the manner provided by Idaho Code 34-1807:

...the county clerk shall carefully examine said petitions and shall attach to the signature sheets a certificate to the [city clerk] substantially as follows:

State of Idaho

ss.

County of _____

To the honorable _____, [City Clerk] for the [City of _____]; I, _____, County Clerk of _____ County, hereby certify that ___ signatures on this petition are those of qualified electors.

Signed _____

County Clerk or Deputy.

(Seal of office)

50-411. NOTICE OF CANDIDATE FILING DEADLINE.

Not more than fourteen (14) nor less than seven (7) days preceding the candidate filing deadline for an election, the city clerk shall cause to be published in the official newspaper a notice of the forthcoming candidate filing deadline. The notice shall state the name of the city, the date of the election, the offices up for election, that declarations of candidacy are available from the city clerk, and the deadline for filing such declarations with the city clerk.

For the 2011 general city election, the notice of candidate filing deadline must be published once as a legal notice in the official city newspaper between Friday, August 26, 2011 and Friday, September 2, 2011.

The notice includes: the name of the city, the date of the election, the offices up for election, that candidate filing forms are available from the city clerk and the deadline for candidates to file their Declaration of Candidacy with the city clerk.

In addition to the legal notice, clerks are strongly encouraged to take advantage of media articles, posted notices and other methods to get the word out about the upcoming election.

See Appendix B for an example notice of candidate filing deadline.

50-412. CANVASSING VOTES – DETERMINING RESULTS OF ELECTION.

The county commissioners, within ten (10) days following any election, shall meet for the purpose of canvassing the results of the election. Upon acceptance of tabulation of votes prepared by the election judges and clerks, and the canvass as herein provided, the results of both shall be entered in the minutes of city council proceedings and proclaimed as final. Results of election shall be determined as follows: in the case of a single office to be filled, the candidate with the highest number of votes shall be declared elected; in the case where more than one (1) office is to be filled, that number of candidates receiving the highest number of votes, equal to the number of offices to be filled, shall be declared elected.

The county commissioners are now responsible for canvassing the results of all city elections within 10 days after the election.

The votes for each candidate and issue on the ballot, by precinct, must be included in the council meeting minutes after the votes have been canvassed by the county commissioners.

When a single position is up for election, such as the mayor's office or a designated council seat, the candidate with the most votes is elected, even if they received less than a majority of the votes

cast. When candidates are running for multiple positions, such as two four-year council positions, the top vote-getters are elected to fill the available positions and candidates are not required to obtain a majority of the votes cast.

*The only case in which candidates **must** receive at least a majority of the vote to be elected is where the city, by ordinance, requires election by majority vote and provides for runoff elections in the event no candidate receives a majority (see the section on runoff elections for more information).*

50-413. TIE VOTES.

In case of a tie vote between candidates, the city clerk shall give notice to the interested candidates to appear before the council at a meeting to be called within six (6) days at which time the city clerk shall determine the tie by a toss of a coin.

50-414. FAILURE TO QUALIFY CREATES VACANCY.

If a person elected fails to qualify, a vacancy shall be declared to exist, which vacancy shall be filled by the mayor and the council.

50-415. CERTIFICATES OF ELECTIONS.

A certificate of election for each elected city official or appointee to fill such position shall be made under the corporate seal by the city clerk, signed by the mayor and clerk, and presented to such officials at the time of subscribing to the oath of office.

AIC sends Certificates of Election to all member cities immediately after Election Day. An example Certificate of Election is included in Appendix I. For more information see the section of this manual on installing recently elected officials.

50-416. APPLICATION FOR RECOUNT OF BALLOTS.

Any candidate desiring a recount of the ballots cast in any general city election may apply to the attorney general therefor, within twenty (20) days of the canvass of such election by the county board of canvassers. The provisions of chapter 23, title 34, Idaho Code, shall govern recounts of elections held under this chapter.

See the section on recount of ballots in this manual for more information.

50-417. RECALL ELECTIONS.

Recall elections shall be governed by the provisions of chapter 17, title 34, Idaho Code, except as those provisions may be specifically modified by the provisions of this chapter.

See the section on recall elections in this manual for more information.

50-418. INITIATIVE AND REFERENDUM ELECTIONS.

Initiative and referendum elections shall be governed by the provisions of chapter 18, title 34, Idaho Code, and chapter 5, title 50, Idaho Code, except as those provisions are specifically modified by this chapter.

See the section on initiative and referendum elections in this manual for more information.

50-419. ELECTION LAW VIOLATIONS.

The provisions of chapter 23, title 18, Idaho Code, pertaining to crimes and punishments for election law violations are applicable to all municipal elections.

50-420. APPLICATION OF CAMPAIGN REPORTING LAW TO ELECTIONS IN CERTAIN CITIES.

The provisions of sections 67-6601 through 67-6616 and 67-6623 through 67-6630, Idaho Code, are hereby made applicable to all elections for mayor, councilman and citywide measures in cities of five thousand (5,000) or more population, except that the city clerk shall stand in place of the secretary of state, and the city attorney shall stand in place of the attorney general.

Cities required to comply with the Idaho campaign finance reporting law include: Boise, Nampa, Meridian, Idaho Falls, Pocatello, Coeur d'Alene, Caldwell, Twin Falls, Lewiston, Rexburg, Post Falls, Moscow, Eagle, Ammon, Kuna, Hayden, Chubbuck, Mountain Home, Garden City, Blackfoot, Jerome, Burley, Sandpoint, Hailey, Payette, Rathdrum, Emmett, Middleton, Rupert, Weiser, Preston, and Star.

Write-In Candidates

50-410. TIME AND MANNER OF FILING DECLARATIONS (EXCERPT).

..Write-in candidates shall be governed by section 34-702A, Idaho Code, but shall file the declarations required in that section with the city clerk.

34-702A. DECLARATION OF INTENT FOR WRITE-IN CANDIDATES (EXCERPT).

No write-in vote for any office in a primary, special, or general election shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of said office if elected. The declaration of intent shall be filed with the secretary of state if for a federal, state, or legislative district office and with the county clerk if for a county office. Such declaration of intent shall be filed not later than twenty-eight (28) days before the day of election. The secretary of state shall prescribe the form for said declaration.

See Appendix F for the Declaration of Intent for write-in candidates.

Candidates are required to certify on their Declaration of Intent that they are qualified to hold the office of mayor or councilmember, meaning they meet the following qualifications as of the date their Declaration of Intent is submitted to the city clerk:

At least 18 years of age,

A U.S. citizen,

The candidate's primary residence must be within the city,

The address of the candidate's voter registration must match the residence address provided on the candidate's Declaration of Intent, and

The candidate must have resided in the city for at least 30 days prior to submitting their Declaration of Intent.

Write-in votes are only counted when cast for individuals who filed a Declaration of Intent with the city clerk at least 28 days prior to the election. The deadline for filing the Declaration of Intent is Tuesday, October 11, 2011.

Write-in candidates are only required to file the Declaration of Intent with the city clerk—they

are **NOT** required to submit a petition or \$40 fee.

Installing Recently Elected Officials

50-702. QUALIFICATION OF COUNCILMEN – TERMS – INSTALLATION [EXCERPT].

...Councilmen elected at each general city election shall be installed at the first meeting in January following election. The manner of conducting that meeting shall be as herein set forth and not otherwise: the incumbents shall meet and conduct such business as may be necessary to conclude the fiscal matters of the preceding year; the newly elected shall then subscribe to the oath of office, be presented certificates of election, assume the duties of their position, and conduct such business as may be necessary, one (1) item of which shall be the election of a member as president of the council.

50-601. QUALIFICATIONS [OF MAYOR] [EXCERPT].

...He shall take office at the time and in the manner provided for installation of councilmen.

50-415. CERTIFICATES OF ELECTIONS.

A certificate of election for each elected city official or appointee to fill such position shall be made under the corporate seal by the city clerk, signed by the mayor and clerk, and presented to such officials at the time of subscribing to the oath of office.

Mayors and councilmembers elected at the 2011 general city election are installed at the first council meeting in January. After the election, AIC will send each city a packet of materials including instructions for installing elected officials, the oath of office form, Certificates of Election and Certificates of Appointment.

The following procedure for installing elected officials at the first meeting in January is taken from Idaho Code 50-702, 50-601, and 50-415. The authority to administer oaths is found in Idaho Code 50-607 and 50-207.

1. Incumbents Convene Meeting, Approve Minutes & Approve Payment of Bills.

The incumbent mayor and councilmembers convene the meeting, approve the minutes from any previous meetings and approve payment of the bills.

2. Swearing-In.

Each recently elected official stands, raises his/her right hand, listens as the oath of office is read by the city clerk, and at the end of the oath responds “I do” or “I will.” The elected official may choose to recite the oath as it is read. Each recently elected official must sign the oath of

office, which is also signed by the city clerk and kept by the city as an official record. The oath of office form is included in Appendix H.

Typically the oath of office is administered by the city clerk. The mayor may administer the oath of office to councilmembers; however, a newly elected mayor does not have authority to administer oaths until after he/she has taken the oath from the clerk.

3. Presentation of Certificates of Election.

The sworn-in officials each receive a Certificate of Election signed by the mayor and the city clerk. The mayor, even if newly elected and installed, signs the certificates, including his/her own. A model Certificate of Election is included in Appendix I.

4. Council Selects its President.

The sworn-in officials take their seats and the council proceeds to elect one of its members to serve as council president. The council may then proceed with other necessary business.

5. Filling Vacancies.

If any mayoral or council vacancies exist, these may be filled by the normal process of appointment.

A mayoral vacancy is filled by motion of the council, approved by a majority of members present and voting. The appointee serves until the next general city election—November 2013—at which point the office is up for election to a four-year term.

For council vacancies, the position is filled by mayoral appointment and must be confirmed by a majority of councilmembers present and voting. The individual serves until the next general city election—November 2013—at which point the office is up for election as follows:

If the normal four-year term of office expires at the end of 2013, the position is up for election to a four-year term at the November 2013 general city election;

OR

If the normal four-year term of office expires at the end of 2015, the position is up for election for the remaining two years of the term at the November 2013 general city election. The position is then up for election to a four-year term in 2015.

Individuals appointed to fill vacancies are sworn-in by the city clerk, sign the oath of office and each receive a Certificate of Appointment (both of which are available upon request from AIC). A model Certificate of Appointment is included in Appendix J.

Swearing-In Officials Unable to Attend First Meeting in January.

Officials unable to attend the first council meeting in January can take the oath of office at a

following meeting.

Council Seats & Districts

50-707. ASSIGNMENT OF COUNCIL SEATS.

Any city, by ordinance, may assign a number to each council seat. Upon the adoption of such an ordinance, and at least one hundred twenty (120) days prior to the next general election, the city clerk shall assign a number for each council seat. Any candidate seeking election to the council shall file for one (1) of the assigned council seats.

Designated council seats must be established by ordinance. A new ordinance does not have to be passed every election—once the ordinance is passed it remains in effect until repealed.

Cities wishing to establish numbered council seats in time for the 2011 general city election must have the ordinance passed and published on or before Monday, July 11, 2011.

There are currently 28 cities with designated council seats, including: Ammon, Athol, Blackfoot, Boise, Bovill, Caldwell, Coeur d'Alene, Greenleaf, Hailey, Hayden, Idaho Falls, Island Park, Kellogg, Kimberly, Kootenai, Meridian, Minidoka, Nampa, Pocatello, Post Falls, Rathdrum, Rupert, Shelley, Stanley, Star, Sun Valley, Twin Falls and Wallace.

50-707A. ELECTION OF COUNCILMEN BY DISTRICTS.

(1) Any city may, by ordinance, provide for districts and the election of councilmen by districts. Upon the adoption of such an ordinance and at least one hundred twenty (120) days prior to each general election, the governing body of the city shall establish the territory of council districts in accordance with this section.

(2) Each district shall consist of one or more contiguous election precincts and each district shall, to the nearest extent possible, contain the same number of people based upon the most recent federal census.

(3) Each city providing for the election of councilmen by districts shall establish the number of districts corresponding to the number of council seats determined by the city pursuant to section 50-701, Idaho Code, or for any city having a governing body governed by the provisions of sections 50-801 through 50-812, Idaho Code, the number of council seats determined by the city pursuant to section 50-805, Idaho Code.

(4) Upon adoption of such an ordinance, a council shall determine, not less than ninety (90) days before the next general city election, if council members are to be elected by electors from the entire city, or by the electors of the said geographic district. The council shall also determine, not less than ninety (90) days before the next general election, the method of the implementation of this ordinance.

Council districts must be established by ordinance at least 120 days prior to the election. Cities wishing to establish council districts in time for the 2011 general city election must have the ordinance passed and published on or before Monday, July 11, 2011.

There are currently no cities that elect councilmembers by district.

Runoff Elections

50-612. MAJORITY REQUIRED FOR ELECTION — RUNOFF ELECTION.

A city may, by ordinance, provide that a majority of the votes for any candidate running for the office of mayor shall be required for election to that office. In the event no candidate receives a majority of the votes cast, there shall be a runoff election between the two (2) candidates receiving the highest number of votes cast. Such runoff election shall be conducted by the county clerk as in the general election in a manner consistent with chapter 14, title 34, Idaho Code, and at such time, within thirty (30) days of the general election, as prescribed by the city and shall be exempt from the limitation upon elections provided in sections 34-106 and 50-405, Idaho Code. The ballot shall be prepared by the county clerk not less than twenty-two (22) days preceding the runoff election. The designation of polling places shall be made by the county commissioners not less than twenty (20) days preceding any runoff election and sample ballots shall be printed not less than eighteen (18) days preceding the runoff election.

50-707B. MAJORITY MAY BE REQUIRED FOR ELECTION — RUNOFF ELECTION.

A city may, by ordinance, provide that a majority of the votes for any candidate running for a council seat adopted by a city in accordance with section 50-707 or 50-707A, Idaho Code, shall be required for election to that office. In the event no candidate receives a majority of the votes cast, there shall be a runoff election between the two (2) candidates receiving the highest number of votes cast. Such runoff election shall be conducted by the county clerk as in the general election in a manner consistent with chapter 14, title 34, Idaho Code, and at such time within thirty (30) days of the general election, as prescribed by the city and shall be exempt from the limitation upon elections provided in sections 34-106 and 50-405, Idaho Code. The ballot shall be prepared by the county clerk not less than twenty-two (22) days preceding the runoff election. The designation of polling places shall be made by the county commissioners not less than twenty (20) days preceding any runoff election, and sample ballots shall be printed not less than eighteen (18) days preceding the runoff election.

Runoff elections must be established by ordinance. A new ordinance does not have to be passed every election—once the ordinance is passed it remains in effect until repealed.

The law recognizes the abbreviated timeframe inherent in runoff elections by providing special deadlines for ballot preparation, designation of polling places and printing of sample ballots

(other deadlines remain the same).

One of the important considerations involved in runoff elections is cost: under the new consolidated elections system, cities are responsible for reimbursing the county for the full cost of conducting the runoff election. Since cities have the ability to choose whether to have runoffs, this is an issue that should be seriously considered. The county will be responsible for administering the runoff election, just as with all other types of elections.

Currently, eight cities have mayoral runoffs: American Falls, Blackfoot, Boise, Eagle, Idaho Falls, Mountain Home, Pocatello, and Spirit Lake. Only Blackfoot, Hailey, and Idaho Falls have runoffs for designated council seats.

It is important to note that runoff elections only involve the two candidates receiving the highest number of votes cast for the office during the general election. It is impermissible for other candidates to run as write-ins during a runoff election.

Qualifications, Terms of Office, Manner of Filling Vacancies & Salary for Councilmembers & Mayors

50-601. QUALIFICATIONS [AND TERM OF OFFICE OF MAYOR].

Any person shall be eligible to hold the office of mayor who is a qualified elector of the city at the time his declaration of candidacy or declaration of intent is submitted to the city clerk and remains a qualified elector during his term of office.

The term of office of mayor shall be for a period of four (4) years except as otherwise specifically provided. He shall take office at the time and in the manner provided for installation of councilmen.

Candidates are required to certify on their Declaration of Candidacy or Declaration of Intent that they are qualified to hold the office of mayor, meaning they meet the following qualifications as of the date their declaration is submitted to the city clerk:

At least 18 years of age,

A U.S. citizen,

The candidate's primary residence must be within the city,

The address of the candidate's voter registration must match the residence address provided on the candidate's declaration, and

The candidate must have resided in the city for at least 30 days prior to submitting their declaration.

50-608. VACANCY IN OFFICE OF MAYOR.

In case of a temporary vacancy in the office of mayor due to absence or disability, the president of the council shall exercise the office of mayor during such disability or temporary absence, and until the mayor shall return. When a vacancy occurs in the office of mayor by reason of death, resignation or permanent disability, the city council shall fill the vacancy from within or without the council as may be deemed in the best interests of the city, which appointee shall serve until the next general city election, at which election a mayor shall be elected for the full four (4) year term.

50-701. [COUNCIL] COMPOSITION – POWERS.

The legislative authority of each city in the state of Idaho, except those operating under the provisions of section[s] 50-801 through 50-812 shall be vested in a council consisting of either four (4) or six (6) members, one half (1/2) of whom shall be elected at each general city election. Councils shall have such powers and duties as are now or may hereafter be provided under the general laws of the state of Idaho.

50-702. QUALIFICATION OF COUNCILMEN – TERMS – INSTALLATION.

Any person shall be eligible to hold the office of councilman of his city who is a qualified elector at the time his declaration of candidacy or declaration of intent is submitted to the city clerk, and remains a qualified elector under the constitution and laws of the state of Idaho. Each councilman elected at a general city election, except as otherwise specifically provided, shall hold office for a term of four (4) years, and until his successor is elected and qualified. Councilmen elected at each general city election shall be installed at the first meeting in January following election. The manner of conducting that meeting shall be as herein set forth and not otherwise: the incumbents shall meet and conduct such business as may be necessary to conclude the fiscal matters of the preceding year; the newly elected shall then subscribe to the oath of office, be presented certificates of election, assume the duties of their position, and conduct such business as may be necessary, one (1) item of which shall be the election of a member as president of the council.

Candidates are required to certify on their Declaration of Candidacy or Declaration of Intent that they are qualified to hold the office of councilmember, meaning they meet the following qualifications as of the date their declaration is submitted to the city clerk:

At least 18 years of age,

A U.S. citizen,

The candidate's primary residence must be within the city,

The address of the candidate's voter registration must match the residence address provided on the candidate's declaration, and

The candidate must have resided in the city for at least 30 days prior to submitting their declaration.

50-704. [COUNCIL] VACANCIES – APPOINTMENT.

A vacancy on the council shall be filled by appointment made by the mayor with the consent of the council, which appointee shall serve only until the next general city election, at which such vacancy shall be filled for the balance of the original term.

50-203. OFFICIALS – COMPENSATION.

The officials of each city shall consist of a mayor and either four (4) or six (6) councilmen whose compensation shall be fixed by ordinance published at least seventy-five (75) days before any general city election, which ordinance shall be effective for all said officials commencing on January 1 following said election and continuing until changed pursuant to this section.

The deadline for passage and publication of a salary ordinance is Thursday, August 25, 2011.

An ordinance passed and published by the August 25 deadline takes effect January 1, 2012.

A model salary ordinance is provided in Appendix C.

Election Consolidation

34-1401. ELECTION ADMINISTRATION.

Notwithstanding any provision to the contrary, the county clerk shall administer all elections on behalf of any political subdivision, subject to the provisions of this chapter, including all special district elections and elections of special questions submitted to the electors as provided in this chapter. Water districts governed by chapter 6, title 42, Idaho Code, recreational water and/or sewer districts as defined in section 42-3202A, Idaho Code, ground water recharge districts governed by chapter 42, title 42, Idaho Code, ground water management districts governed by chapter 51, title 42, Idaho Code, ground water districts governed by chapter 52, title 42, Idaho Code, and irrigation districts governed by title 43, Idaho Code, are exempt from the provisions of this chapter. Municipal elections shall be conducted under the provisions of this chapter except for the specific provisions of chapter 4, title 50, Idaho Code. All school district and highway district elections shall be conducted pursuant to the provisions of this chapter 14, title 34, Idaho Code. All highway district and school district elections shall be administered by the clerk of the county wherein the district lies. Elections in a joint school district or other political subdivisions that extend beyond the boundaries of a single county shall be conducted jointly by the clerks of the respective counties, and the clerk of the home county shall exercise such powers as are necessary to coordinate the election. "Home county" shall be defined as the county in which the business office for the district or political subdivision is located. For the purposes of achieving uniformity, the secretary of state shall, from time to time, provide directives and instructions to the various county clerks. Unless a specific exception is provided in this chapter, the provisions of this chapter shall govern in all questions regarding the conduct of elections on behalf of all political subdivisions. In all matters not specifically covered by this chapter, other provisions of title 34, Idaho Code, governing elections shall prevail over any special provision which conflicts therewith.

The county clerk shall conduct the elections for political subdivisions and shall perform all necessary duties of the election official of a political subdivision including, but not limited to, notice of the filing deadline, notice of the election, and preparation of the election calendar.

This section provides authority for the county clerk to administer elections on behalf of local governments.

This section also provides that the provisions of Title 50, Chapter 4 relating to city elections

supersede the provisions of Title 34, Chapter 14.

The section also provides that for jurisdictions located in multiple counties, the county clerk of the “home county” (i.e. the county in which city hall is located) takes the lead in coordinating the election for the jurisdiction.

Withdrawal of Candidacy

34-1405A. WITHDRAWAL OF CANDIDACY.

A candidate for nomination or candidate for election to an office may withdraw from the election by filing a notarized statement of withdrawal with the officer with whom his declaration of candidacy was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. A candidate may not withdraw later than forty-five (45) days before an election.

Model withdrawal forms for nominated and write-in candidates are included in Appendix G. The deadline for nominated candidates (those who would be listed on the ballot) to withdraw is Friday, September 23, 2011. Write-in candidates may withdraw at any time prior to Election Day.

The withdrawal must be notarized by a Notary Public duly authorized by the State of Idaho.

Notice of Election

34-1406. NOTICE OF ELECTION.

The county clerk shall give notice for each political subdivision for any election by publishing such notice in the official newspaper of the county. The notice shall state the date of the election, the polling places, and the hours during which the polls shall be open for the purpose of voting. The first publication shall be made not less than twelve (12) days prior to the election, and the last publication of notice shall be made not less than five (5) days prior to the election. For each primary, general and special election, the county clerk shall cause to be published a facsimile, except as to size, of the sample ballot in at least two (2) newspapers published within the county, but if this is not possible, the sample ballot shall be published in one (1) newspaper published within the county or one (1) newspaper that has general circulation within the county. Such publication shall be in conjunction with the second notice of election required by this section. The political subdivision shall notify the county clerk in writing of the official newspaper of the political subdivision.

This section requires the city clerk to notify the county clerk in writing of the city's official newspaper to assist in publication of the notice of election.

Hours of Polling Places

34-1409. CONDUCT OF ELECTION ON ELECTION DAY.

At all elections conducted by any political subdivision, the polls shall be opened at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the election official may, at his option, open the polls in his jurisdiction at 7:00 a.m. All political subdivisions conducting elections on the same date shall, whenever practicable, use the same polling places.

This section provides that the polling hours for elections are 8:00 a.m. to 8:00 p.m., but that the county clerk may, at his/her discretion, open the polls at 7:00 a.m.

City poll hours ordinances are no longer necessary since the hours of elections are set by Idaho Code 34-1409, so cities may repeal their poll hours ordinances.

Payment of Election Expenses

34-1411. PAYMENT OF ELECTION EXPENSES BY COUNTY.

(1) On and after January 1, 2011, no county shall charge any taxing district, as defined in section 63-201, Idaho Code, for expenses associated with conducting any election on behalf of any taxing district, with the exception of expenses associated with conducting municipal runoff elections, which shall be paid by the city adopting runoff elections pursuant to the provisions of section 50-612 or 50-707B, Idaho Code. Expenses associated with conducting taxing district elections shall include:

- (a) Costs of ballot preparation, distribution, printing and counting, including absentee ballots.
- (b) Costs of printing poll books and costs of tally books, stamps, signs and any other voting supplies, publications and equipment.
- (c) Wages or other compensation for election judges and clerks or any county employees or officials performing duties associated with conducting taxing district elections.
- (d) Costs paid for renting polling facilities.
- (e) Acquisition, repair, maintenance or any other costs associated with voting machines or vote tally systems as defined in subsections (9) and (10) of section 34-2401, Idaho Code.
- (f) Costs of publishing and printing election notices and ballots.

(2) Counties shall not be responsible for any election expenses prior to the time any taxing district orders an election, such as notice and costs for public hearings and notice and costs for public hearings on ballot measures.

(3) Notwithstanding the provisions of subsection (1) of this section, all ballot questions shall be limited to two hundred fifty (250) words or less. If a ballot question is in excess of two hundred fifty (250) words, the entity proposing a ballot question that is not a state constitutional amendment shall be required to pay the ballot printing costs associated with the ballot question.

This section makes clear the fact that counties are prohibited from charging cities for any costs associated with city elections, with the following exceptions:

Where a city has adopted mayoral and/or council runoffs by ordinance and a runoff election is required;

Where a city has a ballot question in excess of 250 words; or

Where the city and county reach a voluntary agreement for payment of expenses, such as a city that wants to have in-person absentee voting at city hall and is willing to pay the cost.

Cities are responsible for costs associated with drafting of ordinances/resolutions calling for an election (such as a bond ordinance or resolution ordering an advisory vote), as well as publication of hearing notices prior to the time the election is called.

Retention Periods for Election Records

34-217. RETENTION OF COUNTY ELECTION RECORDS.

County election records shall be maintained by the county clerk for the time periods outlined in this section. Records shall be maintained for the period specified beginning with the date the record is created or has become no longer valid, whichever is greater.

(1) The following records shall be retained for not less than five (5) years:

- (a) Voter registration cards for electors whose registration has been terminated.
- (b) Combination election record and poll book.
- (c) Declaration of candidacy.
- (d) Maps of precinct boundaries with legal descriptions.
- (e) List of absentee voters.

(2) The following shall be retained for two (2) years:

- (a) Correspondence relating to an elector's voter registration.
- (b) Completed absentee ballot request forms.

(3) The following shall be maintained for one (1) year:

- (a) Tally books.
- (b) Absentee ballot affidavit envelopes.
- (c) Notice of election.
- (d) Personal identification affidavit.
- (e) Voted ballots.
- (f) Unvoted ballots from the primary election.
- (g) Ballot tracking logs.
- (h) Any ballots that were required to be duplicated before being counted.

(i) Automated tabulation election logs.

(j) Copy of the election definition and program used in tabulating ballots electronically and in the ballot marking device.

(k) Record of the number of ballots printed and furnished to each polling place.

(4) Other election supplies including, but not limited to, unused ballots, official election stamps, [and] spoiled ballots may be disposed of sixty (60) days following the deadline for requesting a recount or filing an election contest pursuant to chapters 20 and 21, title 34, Idaho Code.

50-907. CLASSIFICATION AND RETENTION OF MUNICIPAL RECORDS.

(1) "Permanent records" shall consist of:

(a) Adopted meeting minutes of the city council and city boards and commissions;

(b) Ordinances and resolutions;

(c) Building plans and specifications for commercial projects and government buildings;

(d) Fiscal year-end financial reports;

(e) Records affecting the title to real property or liens thereon;

(f) Cemetery records of lot ownership, headstone inscriptions, interment, exhumation and removal records, and cemetery maps, plot plans and surveys;

(g) Poll books, excluding optional duplicate poll books used to record that the elector has voted, tally books, sample ballots, campaign finance reports, declarations of candidacy, declarations of intent, and notices of election; and

(h) Other documents or records as may be deemed of permanent nature by the city council.

Permanent records shall be retained by the city in perpetuity, or may be transferred to the Idaho state historical society's permanent records repository upon resolution of the city council.

(2) "Semipermanent records" shall consist of:

(a) Claims, canceled checks, warrants, duplicate warrants,

purchase orders, vouchers, duplicate receipts, utility and other financial records;

(b) Contracts;

(c) Building applications for commercial projects and government buildings;

(d) License applications;

(e) Departmental reports;

(f) Bonds and coupons; and

(g) Other documents or records as may be deemed of semipermanent nature by the city council.

Semipermanent records shall be kept for not less than five (5) years after the date of issuance or completion of the matter contained within the record.

(3) "Temporary records" shall consist of:

(a) Building applications, plans, and specifications for noncommercial and nongovernment projects after the structure or project receives final inspection and approval;

(b) Cash receipts subject to audit;

(c) Election ballots and duplicate poll books; and

(d) Other documents or records as may be deemed of temporary nature by the city council.

Temporary records shall be retained for not less than two (2) years, but in no event shall financial records be destroyed until completion of the city's financial audit as provided in section 67-450B, Idaho Code.

(4) Semipermanent and temporary records may only be destroyed by resolution of the city council, and upon the advice of the city attorney. Such disposition shall be under the direction and supervision of the city clerk. The resolution ordering destruction shall list in detail records to be destroyed. Prior to destruction of semipermanent records, the city clerk shall provide written notice, including a detailed list of the semipermanent records proposed for destruction, to the Idaho state historical society thirty (30) days prior to the destruction of any records.

(5) Prior to January 1, 2007, each city council shall adopt by resolution a records retention schedule, listing the various types of city records and the retention period for each type of record.

Retention of election records is one aspect that will change significantly as a result of election consolidation. Due to the passage of House Bill 275 by the 2011 Idaho Legislature, there are specific retention periods for county election records in Idaho Code 34-217, in addition to existing retention periods in the municipal code in 50-907.

Since the city clerk remains responsible for receiving filing forms from candidates, the Declaration of Candidacy, Petition of Candidacy and Declaration of Intent will be subject to the provisions of 50-907(1)(g) and are permanent records that cannot be destroyed. Likewise, since the city clerk is responsible for overseeing campaign finance reporting, these reports are subject to the provisions of 50-907(1)(g) and must be retained permanently.

Permanent records must be retained by the city in perpetuity or transferred to the State Archives upon resolution of the city council.

Any records prepared by the county during the course of the election will be retained by the county after the election and are subject to the retention periods set forth in Idaho Code 34-217. Some of these records include: poll books, tally books, sample ballots, voted ballots, unvoted ballots, notices of election, maps of precinct boundaries, lists of absentee voters, completed absentee request forms, and absentee ballot affidavit envelopes.

Voter Registration: Idaho Code Title 34, Chapter 4

Voter registration is one area that will not change at all in the wake of election consolidation. City clerks may continue to distribute voter registration cards, as well as accept the completed cards and forward them to the county clerk's office.

34-401. ELECTORS PRIVILEGED FROM ARREST DURING ATTENDANCE AT POLLING PLACE – EXCEPTION.

Electors are privileged from arrest, except for treason, a felony or breach of the peace, during their attendance at a polling place.

34-402. QUALIFICATIONS OF ELECTORS.

Every male or female citizen of the United States, eighteen (18) years old, who has resided in this state and in the county for thirty (30) days where he or she offers to vote prior to the day of election, if registered within the time period provided by law, is a qualified elector.

See Idaho Code 50-402(c) for more information on qualifications of electors for city elections.

34-403. DISQUALIFIED ELECTORS NOT PERMITTED TO VOTE.

No elector shall be permitted to vote if he is disqualified as provided in article 6, sections 2 and 3 of the state constitution.

Article VI, Section 2 of the Idaho Constitution: “Every male or female citizen of the United States, eighteen years old, who has resided in this state, and in the county where he or she offers to vote for the period provided by law, if registered as provided by law, is a qualified elector.”

Article VI, Section 3 of the Idaho Constitution: “No person is permitted to vote, serve as a juror, or hold any civil office who has, at any place, been convicted of a felony, and who has not been restored to the rights of citizenship, or who, at the time of such election, is confined in prison on conviction of a criminal offense.”

In the case of felons, if the individual has completed the terms of sentence (including probation or parole), he/she may register and vote (Idaho Code 18-310).

34-404. REGISTRATION OF ELECTORS.

All electors must register before being able to vote at any primary, general, special, school or any other election governed by the provisions of title 34, Idaho Code. Registration of a qualified person occurs when a legible, accurate and complete registration card is received in the office of the county clerk or is received at the polls pursuant to section 34-408A, Idaho Code.

34-405. GAIN OR LOSS OF RESIDENCE BY REASON OF ABSENCE FROM STATE.

For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his absence while employed in the service of this state or the United States, while a student of any institution of learning, while kept at any state institution at public expense, nor absent from the state with the intent to have this state remain his residence. If a person is absent from this state but intends to maintain his residence for voting purposes here, he shall not register to vote in any other state during his absence.

34-406. APPOINTMENT OF REGISTRARS.

The county clerk shall provide for voter registration in the clerk's office and may appoint registrars to assist in voter registration throughout the county.

The county clerk shall provide all political parties within the county with a supply of the mail registration form prescribed in section 34-410, Idaho Code.

34-407. PROCEDURE FOR REGISTRATION.

(1) Any county clerk or official registrar shall register without charge any elector who personally appears in the office of the county clerk or before the official registrar, as the case may be, and requests to be registered.

(2) Upon receipt of a written application to the county clerk from any elector who, by reason of illness or physical incapacity is prevented from personally appearing in the office of the county clerk or before an official registrar, the county clerk or an official registrar so directed by the county clerk shall register such elector at the place of abode of the elector.

34-408. CLOSING OF REGISTER — TIME LIMIT.

(1) No elector may register in the office of the county clerk within twenty-four (24) days preceding any election held throughout the county in which he resides for the purpose of voting at such election; provided however, a legible, accurate and complete registration card received in the office of the county clerk during the twenty-four (24) day period preceding an election shall be accepted and held by the county clerk until the day following the election when registration reopens, at which time the registration shall become effective. This deadline shall also apply to any registrars the county clerk may have appointed.

(2) Any elector who will complete his residence requirement or attain the requisite voting age during the period when the register of electors is closed may register prior to the closing of the register.

(3) Notwithstanding subsection (1) of this section, an individual who is eligible to vote may also register, upon providing proof of residence, at the "absent electors' polling place" provided in section 34-1006, Idaho Code.

34-408A. ELECTION DAY REGISTRATION.

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

- (1) Showing an Idaho driver's license or Idaho identification card issued through the department of transportation; or
- (2) Showing any document which contains a valid address in the precinct together with a picture identification card; or
- (3) Showing a current valid student photo identification card from a postsecondary educational institution in Idaho accompanied with a current student fee statement that contains the student's valid address in the precinct.

Election day registration provided in this section shall apply to all elections conducted under title 34, Idaho Code, and to school district and municipal elections.

An individual who is eligible to vote may also register, upon providing proof of residence, at the "absent electors' polling place" provided in section 34-1006, Idaho Code.

34-409. REPEALED.

34-410. MAIL REGISTRATION.

Any elector may register by mail for any election. Any mail registration application must be received by the county clerk prior to the close of registration as provided in section 34-408, Idaho Code, provided that any mail registration application postmarked not later than twenty-five (25) days prior to an election shall be deemed timely.

The secretary of state shall prescribe the form for the mail registration application. This mail application form shall be available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs.

Any federal mail registration form adopted pursuant to the provisions of the national voter registration act of 1993 (P.L. 103-31) shall also be accepted as a valid registration, if such form is postmarked not later than twenty-five (25) days prior to an election.

The county clerk shall prepare and issue by first class nonforwardable mail to each elector registering by mail a verification of registration containing the name and residence of the elector and the name or number of the precinct in which the elector resides.

A verification returned undeliverable shall cause the county clerk to remove the elector's card from the register of electors.

As required by the help America vote act of 2002 (P.L. 107-252), a copy of proper identification will be required prior to issuance of a ballot to anyone who has registered by mail and has not previously voted in an election for federal office in the state. Proper identification consists of:

- (1) A current and valid photo identification; or
- (2) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

34-410A. ABSENTEE REGISTRATION FOR UNIFORMED AND OVERSEAS CITIZENS.

Whenever provision is made for absentee voting by a statute of the United States, including the "Uniformed and Overseas Citizens Absentee Voting Act" (42 U.S.C. 1973ff.), an application for an absentee ballot made under that law may be given the same effect as an application for an absentee ballot made under chapter 10, title 34, Idaho Code.

34-411. APPLICATION FOR REGISTRATION — CONTENTS.

(1) Each elector who requests registration shall supply the following information under oath or affirmation:

- (a) His full name and sex.
- (b) His mailing address, his residence address or any other necessary information definitely locating his residence.
- (c) The period of time preceding the date of registration during which he has resided in the state.
- (d) Whether or not he is a citizen.
- (e) That he is under no legal disqualifications to vote.
- (f) The county and state where he was previously registered, if any.
- (g) Date of birth.
- (h) Current driver's license number or, in the absence of an Idaho driver's license, the last four (4) digits of the elector's social security number.

(2) Any elector who shall supply any information under subsection (1) of this section, knowing it to be false, is guilty of perjury.

(3) Each elector who requests registration may, at the elector's option, supply the [the] elector's telephone number. If the telephone number is supplied by the elector, the telephone number shall be available to the public.

34-412. QUALIFICATIONS FOR REGISTRATION.

(1) The qualifications of any person who requests to be registered shall be determined in the first instance by the registering official from the evidence before him. If the registering official determines that such person is not qualified, he shall refuse to register the person.

(2) A person refused registration under subsection (1) of this section may make application to the county clerk for a hearing on his qualifications. Not more than ten (10) days after the date he receives such application, the county clerk shall hold a hearing on the qualifications of the applicant and shall notify the applicant of the place and time of such hearing. At such hearing the applicant may present evidence as to his qualifications, provided that no hearing

shall be held subsequent to any election which is held within said ten (10) day period. If the county clerk determines that the applicant is qualified, the county clerk shall register the applicant immediately upon the conclusion of the hearing.

34-413. REREGISTRATION OF ELECTOR WHO CHANGES RESIDENCE.

An elector who moves to another county within the state or to another state within thirty (30) days prior to any election shall be permitted to vote in the ensuing election by absentee ballot.

34-414 & 34-415. REPEALED.

34-416. REGISTRATION CARDS.

(1) The registration card shall contain the following warning:
WARNING: Any elector who supplies any information, knowing it to be false, is guilty of perjury.

(2) The elector shall read the warning set forth in subsection (1) of this section and shall sign his name in an appropriate place on the completed card.

(3) The registration card completed and signed as provided in this section constitutes the official registration card of the elector. The county clerk shall keep and file all such cards in a convenient manner in his office. Such cards constitute the register of electors and shall be considered confidential and unavailable for public inspection and copying except as provided by subsection (25) of section 9-340C, Idaho Code.

34-417. CHANGES IN BOUNDARIES OF PRECINCT - ALTERATION OF REGISTRATION CARDS.

When changes in the boundaries of any precinct are made, the county clerk shall alter the official registration card of any elector to conform with the change and shall mail a written notice thereof to such elector at his residence address indicated on the altered registration card.

34-418. WEEKLY REVIEW OF NEW REGISTRATION CARDS - REPORT TO INTERESTED OFFICIALS.

Each week the county clerk shall review the registration cards of all newly registered electors for the past weekly period to determine whether they have been previously registered to vote in another state or in another county within this state. The county clerk or secretary of state, through the statewide voter registration system, shall notify the proper registration official or county clerk where the elector was previously registered so that the prior registration may be canceled. The form of such notice shall be prescribed by the secretary of state.

34-419. SUSPENSION OF REGISTRATION OF ELECTORS WHO APPEAR NOT TO BE CITIZENS OF THE UNITED STATES.

The county clerk shall remove from the register of electors the official registration card of any elector who appears by the registration records in the office of the county clerk not to be a citizen of the United States and shall suspend the registration of such elector. The county clerk shall mail a written notice of such removal and suspension to the elector at his residence address indicated on the card. If the elector proves to the county clerk that he is in fact a citizen of the United States, his card shall be replaced in the register and his registration reinstated.

34-420. NO ELECTOR'S REGISTRATION SHALL BE CANCELED WHILE HE IS SERVING IN THE ARMED FORCES — EXCEPTION.

(1) Except as provided in section 34-435, Idaho Code, no elector's registration shall be canceled, nor shall he be deprived of his right to vote at any election by reason of the removal of his official registration card from the register of electors, during any period that he is serving in the armed forces of the United States or of any ally of the United States.

(2) In order to facilitate the implementation of the provisions of subsection (1) of this section, the one hundred twenty (120) day limitation in section 34-435, Idaho Code, shall be waived for the year 1987, in order to allow military registrations to be cancelled by the county clerk in calendar year 1987.

34-421 THROUGH 34-430. REPEALED.

34-431. CHALLENGES OF ENTRIES IN ELECTION REGISTER.

At the time of any election, any registered elector may challenge the entry of an elector's name as it appears in the election register. Such a challenge will be noted in the remarks column following the elector's name stating the reason, such as "died," "moved," or "incorrect address." The individual making the challenge shall sign his name following the entry.

34-432. CORRECTION OF ELECTION REGISTER FROM CHALLENGES AT ELECTION.

(1) Within sixty (60) days after each election, the county clerk shall examine the election register and note the challenges as described in section 34-431, Idaho Code. The county clerk shall mail a written inquiry to the challenged elector at his mailing address as indicated on his registration card. Such inquiry shall state the nature of the challenge and provide a suitable form for reply.

(2) Within twenty (20) days from date of mailing of the written inquiry the elector may, in person or in writing, state that the information on his registration card is correct. Upon receipt of such a statement or request the county clerk shall determine whether the information satisfies the challenge. If the county clerk determines that the challenge has not been satisfied, the county clerk shall schedule a hearing on the challenge and shall notify the elector of the place and time of the hearing. The hearing shall be held no later than twenty (20) days after notice is given. At the hearing, the challenged elector may present evidence of qualification. If the county clerk, upon the conclusion of the hearing, determines that the challenged elector's registration is not valid, the county clerk shall cancel the registration. If a challenged elector fails to make the statement or request in response to the inquiry, the county clerk shall cancel the registration.

(3) The county clerk may make inquiry into the validity of any registration at any time. The inquiry shall proceed as provided in this section.

34-433. MONTHLY CORRECTION OF ELECTION REGISTER FROM REPORTED DEATHS.

The state board of health [and welfare] shall, on or about the 25th day of each month, furnish to the secretary of state a listing showing the name, age, county of residence and residence address of each Idaho resident who has died during the preceding month. The secretary of state shall sort this list by county and furnish a copy of same to each county clerk. Each county clerk shall immediately cancel all registrations of individuals reported as deceased by the state board of health [and welfare] in the board's report to the secretary of state.

34-434. RETENTION OF NOTICES AND CORRESPONDENCE RELATING TO CORRECTION OF ELECTION REGISTERS.

Copies of all notices and other correspondence issued pursuant to the directives contained in sections 67 and 68 of this act [34-432, 34-433, Idaho Code,] shall be retained by the county clerk for a period of two (2) years from date of mailing.

34-435. CANCELLATION OF REGISTRATIONS FOLLOWING ANY GENERAL ELECTION OF THOSE NOT VOTING FOR FOUR YEARS.

Within one hundred and twenty (120) days following the date of the general election in 1978 and every general election thereafter, the county clerk shall examine the election register and the signed statements of challenge made at that election. After this examination,

the county clerk shall immediately cancel the registration of any elector who did not vote at any primary or general election in the past four (4) years.

This section shall be construed as to provide for a uniform four (4) year registration period for all electors.

Those who have not voted at an even-year primary or general election for four years have their registration canceled. Voting history in city elections and other odd-year elections has no bearing on such cancellation. For this reason, it is imperative that city clerks confirm that candidates are registered, even those who are currently serving in office.

In carrying out the provisions of Idaho Code 34-435, the Secretary of State's office has adopted the following procedures:

1. Check only the 2008 primary and general election and the 2010 primary and general election to see if an elector has voted. The voting history from municipal elections is irrelevant to the cancellation.

2. Check to ascertain when the elector was registered. He must be registered in 2006 or previous. Electors registered in 2007 and later shall not be purged.

3. If an elector has not voted at any election mentioned in number 1 above, and he is registered in 2006 or previous, then his registration shall be canceled.

4. The Secretary of State recommends that a notice of cancellation (either ER-15 or a comparable notice) be sent to each elector whose registration has been canceled.

5. March 2, 2011 is the last day for the County Clerk to cancel registrations pursuant to Idaho Code 34-435.

6. Idaho Code 34-436 states that all correspondence relating to the cancellation of an elector's registration shall be retained for two (2) years.

7. If there is any doubt concerning the cancellation of an elector's registration, do not cancel.

34-436. RETENTION OF CORRESPONDENCE RELATING TO CANCELLATION OF VOTER'S REGISTRATION.

All correspondence relating to the cancellation of an elector's registration shall be preserved by the county clerk for a period of two (2) years following the time of any general election.

34-437. FURNISHING LISTS OF REGISTERED ELECTORS – RESTRICTIONS.

(1) Each of the county clerks, upon receiving a request shall supply to any individual, a current list of the registered electors of the county and their addresses, arranged in groups according to election precincts. The county clerks shall prepare an original of the above list from the state voter registration system at county expense. Any person desiring a copy of the original list shall be furnished the same, and the county clerk shall assess the individual an amount which will compensate the county for the cost of reproducing such copy.

(2) No person to whom a list of registered electors is made available or supplied under subsection (1) of this section and no person who acquires a list of registered electors prepared from such list shall use any information contained therein for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. Provided however, that any such list and label may be used for any political purpose.

County clerks are obligated to provide lists of registered electors from the statewide voter registration database upon request.

For more information on the database, see the commentary below the following section.

The law prohibits the use of such lists for commercial purposes, but expressly permits use of such lists for campaign mailings and other political activities.

34-437A. STATEWIDE LIST OF REGISTERED ELECTORS.

(1) The secretary of state, in conjunction with county clerks, shall develop and implement a single, uniform official, centralized, interactive, computerized statewide voter registration system as required by the help America vote act of 2002 (P.L. 107-252).

(2) The statewide system shall contain the name and registration information of every legally registered voter in the state and assign a unique identifier to each legally registered voter in the state, and include the following:

(a) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the state.

(b) The computerized list shall contain the name and registration information of every legally registered voter in the

state.

(c) Under the computerized list, a unique identifier shall be assigned to each legally registered voter in the state.

(d) The computerized list shall be coordinated with other agency databases within the state.

(e) Any election official in the state, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.

(f) All voter registration information obtained by any local election official in the state shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.

(g) The secretary of state shall provide such support as may be required so that local election officials are able to enter information as described in subsection (2)(f) of this section.

(h) The computerized list shall serve as the official voter registration list for the conduct of all elections for federal office in the state.

(3) Any person desiring a copy of the statewide list of registered electors shall be furnished the same, and the secretary of state shall assess the individual an amount which will compensate the state for the cost of reproducing such copy.

No person to whom a list of statewide electors is furnished and no person who acquires a list of statewide electors prepared from such list shall use any information contained therein for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. Provided however, that any such list and label may be used for any political purpose.

A major change implemented by the Help America Vote Act is the requirement for a single, uniform, official, centralized, interactive, computerized statewide voter registration database.

The database must:

Include each registered individual in the state, and each individual must be assigned a unique identifier;

Be the single system in the state for storing and managing the list of registered voters;

Be coordinated with other state agencies and state databases;

Be immediately accessible by state and local election officials; and

Serve as the official voter registration list for federal elections.

34-437B. FURNISHING LISTS OF REGISTERED ELECTORS TO SCHOOL DISTRICTS.

Each of the county clerks, upon receiving a request therefor, not later than the thirtieth day prior to a school election, shall, not later than the seventh day prior to the election, supply to a requesting school board a list of registered electors, that are within the school district within which a school district election is to be held. The county clerk may assess the school board an amount which will compensate the county for the cost of preparing such a list.

34-438. REPEALED.

34-439. DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS.

Notwithstanding any other provision of law, any taxing district which proposes to submit any question to the electors of the district that would authorize any bonded indebtedness shall provide a brief official statement setting forth in simple, understandable language, information on the proposal substantially as follows:

- (1) The total existing indebtedness, including interest accrued, of the taxing district;
- (2) The interest rate which is anticipated on the proposed bond issue, the range of anticipated rates, and the maximum rate if a maximum is specified in the submission of the question; and
- (3) The total amount to be repaid over the life of the bond issue based on the anticipated interest rate, if the bond election is approved.

The verified, official district's statement shall be made a part of the official ballot and be included in the official notice of the election.

Recall Elections: Idaho Code Title 34, Chapter 17

Idaho Code Title 34, chapter 17 lays out the steps for perfecting a recall petition and holding a recall election. For the purposes of this manual, only those portions of the recall law that apply to cities are included.

34-106. LIMITATION UPON ELECTIONS (EXCERPTS).

On and after January 1, 2011, notwithstanding any other provisions of the law to the contrary, there shall be no more than two (2) elections conducted in any county in any calendar year, except as provided in this section...

(1) The dates on which elections may be conducted are:

(a) The third Tuesday in May of each year; and

(b) The Tuesday following the first Monday in November of each year.

(7) ...the second Tuesday in March of each year and on the last Tuesday in August of each year...

(9) Recall elections may be held on any of the four (4) dates authorized in subsections (1) and (7) of this section that falls more than forty-five (45) days after the clerk of the political subdivision orders that such election shall be held.

The recall election dates for 2011 are: Tuesday, March 8; Tuesday, May 17; Tuesday, August 30; and Tuesday, November 8.

The recall election dates for 2012 are: Tuesday, March 13; Tuesday, May 15; Tuesday, August 28 and Tuesday, November 6.

34-1701. OFFICERS SUBJECT TO RECALL.

The following public officers, whether holding their elective office by election or appointment, and none other, are subject to recall:

(1) State officers:

(a) The governor, lieutenant-governor, secretary of state, state controller, state treasurer, attorney general, and superintendent of public instruction;

(b) Members of the state senate, and members of the state house of representatives.

(2) County officers:

(a) The members of the board of county commissioners, sheriff, treasurer, assessor, prosecuting attorney, clerk of the district court, and coroner.

(3) City officers:

(a) The mayor;

(b) Members of the city council.

(4) Special district elected officers for whom recall procedure is not otherwise provided by law.

34-1702. REQUIRED SIGNATURES ON PETITION (EXCERPTS).

A petition for recall of an officer shall be instituted by filing with the appropriate official a verified written petition requesting such recall.

(4) If the petition seeks recall of any of the officers named in subsection (3) of section 34-1701, Idaho Code, the petition shall be filed with the city clerk, and must be signed by registered electors of the city equal in number to twenty percent (20%) of the number of electors registered to vote at the last general city election held in the city for the election of officers.

34-1703. FORM OF PETITION (EXCERPT).

(4) The recall petition for city officers shall be in substantially the following form:

RECALL PETITION

To the honorable _____, City Clerk for the City of _____:

We, the undersigned citizens and registered electors of the City of _____, respectfully demand that _____, holding the office of _____, of the City of _____, be recalled by the registered electors of the City of _____ for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words);
that a special election therefor be called; that we, each for himself say: I am a registered elector of the City of _____, my

residence, post office address, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City or Post Office	Date
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(Here follow twenty numbered lines for signatures.)

34-1704. PRINTING OF PETITION AND SHEETS FOR SIGNATURES -- TIME LIMITS FOR PERFECTING PETITION.

(1) Before or at the time of beginning to circulate any petition for the recall of any officer subject to recall, the person or persons, organization or organizations under whose authority the recall petition is to be circulated, shall send or deliver to the city clerk a copy of a prospective petition duly signed by at least twenty (20) electors eligible to sign such petition. The receiving officer shall immediately examine the petition and specify the form and kind and size of paper on which the petition shall be printed and circulated for further signatures. All petitions and signature sheets for recall shall be printed on a good quality bond or ledger paper of standardized size in substantial conformance within the provisions of section 34-1703, Idaho Code. To every sheet of petitioners' signatures shall be attached a full and correct copy of the recall petition.

(2) The city clerk shall indicate in writing on the prospective recall petition that he has approved it as to form and the date of such approval. Upon approval as to form, the city clerk shall inform the person or persons, organization or organizations under whose authority the recall petition is to be circulated, in writing, that the petition must be perfected with the required number of certified signatures within seventy-five (75) days following the date of approval as to form. Signatures on the prospective petition shall not be counted toward the required number of certified signatures. Any petition that has not been perfected with the required number of certified signatures within the seventy-five (75) days allowed shall be declared null and void ab initio in its entirety.

34-1705. VERIFICATION ON SHEETS FOR SIGNATURES.

Each and every signature sheet of each petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of the petition, by his or her affidavit thereon, as a part thereof:

State of Idaho

ss.

County of

I,, swear, under penalty of perjury, that I am a resident of the State of Idaho and at least eighteen (18) years of age; and that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

(Signature)

Post office address

Subscribed and sworn to before me this day of,
(Notary Seal)
.....
Notary Public
Residing at

34-1706. EXAMINATION AND CERTIFICATION OF SIGNATURES.

All petitions with attached signature sheets shall be filed on the same day with the city clerk. The city clerk shall promptly transmit the petitions and attached signature sheets to the county clerk. An examination to verify whether or not the petition signers are qualified electors shall be conducted by the county clerk as provided in section 34-1807, Idaho Code. This examination shall not exceed fifteen (15) business days from the date of receipt of the petitions.

34-1707. SUFFICIENCY OF PETITION - NOTIFICATION - EFFECT OF RESIGNATION - SPECIAL ELECTION (EXCERPTS).

(4) In the event that a petition filed with a city clerk is found by the city clerk to contain the required number of certified signatures, the city clerk shall promptly, by certified mail, inform the officer being recalled, and the petitioner, that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the city clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the city clerk, a special election shall be ordered by the city clerk. The special election must be held on the date prescribed in section 34-106, Idaho Code. The special election shall be conducted citywide.

(5) In the event that a petition is found not to have the required number of signatures, the officer shall continue in office and no new recall petition may be circulated for a period of ninety (90) days against the same officer.

34-1708. FORM OF RECALL BALLOT.

The ballot at any recall election shall be headed "RECALL BALLOT" and on the ballot shall be printed in not more than two hundred (200) words the reason for demanding the recall of the officer named in the recall petition, and in not more than two hundred (200) words the officer's justification of his course in office. Then the question of whether the officer should be recalled shall be placed on the ballot in a form substantially similar to the following:

FOR recalling _____ who holds office of _____

AGAINST recalling _____ who holds office of _____

34-1709. OFFICER TO CONTINUE IN OFFICE.

The officer named in the recall petition shall continue to perform the duties of his office until the results of the special recall election are officially declared.

34-1710. CONDUCT OF SPECIAL RECALL ELECTION.

Special elections for the recall of an officer shall be conducted and the results thereof canvassed and certified in all respects as general elections, except as otherwise provided. Nothing in this chapter shall preclude the holding of a recall election with another election.

34-1711. CANVASS OF RETURNS (EXCERPT).

(d) For all special recall elections involving city officers, the mayor and council shall meet within six (6) days after said election to canvass the votes cast at such election, and the city clerk shall immediately after the completion thereof, proclaim the results.

This section has been superseded by Idaho Code 50-412, which provides that the county commissioners will canvass the results of every city election within 10 days after the election.

As with any other election, the results of the recall election (by precinct, if the city has multiple precincts) must be included in the minutes of the council meeting following the canvass of votes.

34-1712. GENERAL ELECTION LAWS CONTROL.

(1) The provisions relating to general elections, including the payment of expenses of conducting the recall election, shall govern special recall elections except where otherwise provided for.

(2) Whenever a special recall election is ordered, notice must be issued and posted in the same manner as for a general election.

(3) To recall any officer, a majority of the votes cast at the special recall election must be in favor of such recall, and additionally, the number of votes cast in favor of the recall must equal or exceed the votes cast at the last general election for that officer. If the officer was appointed or was not required to stand for election, then a majority of the votes cast in the recall election shall be the number necessary for recall.

(4) If recalled, an officer shall be recalled as of the time when the results of the special recall election are proclaimed, and a vacancy in the office shall exist.

(5) If an officer is recalled from his office the vacancy shall be filled in the manner provided by law for filling a vacancy in that office arising from any other cause.

34-1713. TIME WITHIN WHICH RECALL MAY BE FILED – REMOVAL OF SIGNATURES.

(1) No petition for a recall shall be circulated against any officer until he has actually held his office ninety (90) days.

(2) After one (1) special recall election, no further recall petition shall be filed against the same officer during his current term of office, unless the petitioners first pay into the public treasury which has paid such special recall election expenses the whole amount of the expenses for the preceding recall election. The specific reason for recall in one (1) recall petition cannot be the basis for a second recall petition during that current term of office.

(3) The signer of any recall petition may remove his own name from the petition by crossing out, obliterating, or otherwise defacing his

own signature at any time prior to the time when the petition is filed.

34-1714. PROHIBITED ACTS - PENALTIES.

(1) A person is guilty of a felony, who:

(a) Signs any name other than his own to any recall petition;

(b) Knowingly signs his name more than once on the same recall petition;

(c) Knowingly signs his name to any recall petition for the recall of any state, county or city officer if he is not a registered elector;

(d) Wilfully or knowingly circulates, publishes or exhibits any false statement or representation concerning the contents, purport or effect of any recall petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such recall petition;

(e) Presents to any officer for filing any recall petition to which is attached, appended or subscribed any signature which the person so filing such petition knows to be false or fraudulent, or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto;

(f) Circulates or causes to circulate any recall petition, knowing the same to contain false, forged or fictitious names;

(g) Makes any false affidavit concerning any recall petition or the signatures appended thereto;

(h) Offers, proposes or threatens for any pecuniary reward or consideration:

(i) To offer, propose, threaten or attempt to sell, hinder or delay any recall petition or any part thereof or any signatures thereon;

(ii) To offer, propose or threaten to desist from beginning, promoting or circulating any recall petition;

(iii) To offer, propose, attempt or threaten in any manner or form to use any recall petition or any power of promotion or opposition in any manner or form for extortion, blackmail or secret or private intimidation of any person or business interest.

(2) A public officer is guilty of a felony, who:

(a) Knowingly makes any false return, certification or affidavit concerning any recall petition, or the signatures appended thereto.

34-1715. REFUSAL TO ACCEPT PETITION - MANDATE - INJUNCTION.

If the city clerk refuses to accept and file any petition for the recall of a public officer with the requisite number of eligible signatures, any citizen may apply within ten (10) business days after such refusal to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the city clerk shall then accept and file the recall petition, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office, except that the time limitations required by section 34-1704(2), Idaho Code, shall begin to run only as of the date of the court judgment, which shall be so stated in the judgment. On a showing that the petition is not legally sufficient, the court may enjoin the city clerk, and all other officers from certifying or printing any official ballot for a recall election. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the court of appeals within ten (10) business days after a decision is rendered. The district court of the state of Idaho in and for Ada County shall have jurisdiction in all cases involving the recall of state officers.

Initiative & Referendum Elections

34-106. LIMITATION UPON ELECTIONS (EXCERPTS).

On and after January 1, 2011, notwithstanding any other provisions of the law to the contrary, there shall be no more than two (2) elections conducted in any county in any calendar year, except as provided in this section...

- (1) The dates on which elections may be conducted are:
 - (a) The third Tuesday in May of each year; and
 - (b) The Tuesday following the first Monday in November of each year.

- (8) Initiative, referendum, bond, levy and any other ballot question elections conducted by any political subdivision shall be held on the nearest date authorized in subsection (1) of this section which falls more than forty-five (45) days after the clerk of the political subdivision orders that such election shall be held, unless otherwise provided by law.

50-501. INITIATIVE AND REFERENDUM.

The city council of each city shall provide by ordinance for direct legislation by the people through the initiative and referendum. Minimum requirements of the ordinance adopted shall be as follows:

- (1) petitioners for initiative or referendum shall be equal to twenty percent (20%) of the total number of electors who cast votes at the last general election in the city;

- (2) petitions for referendum shall be filed not less than sixty (60) days following the final adoption of the ordinance to be subject to referendum;

- (3) a special election for initiative or referendum shall be provided as prescribed in section 34-106, Idaho Code;

- (4) requirements for signature, verification of valid petitions, printing of petition, and time limits, except as expressly modified herein, shall be as nearly as practicable as provided in sections 34-1701 through 34-1705, Idaho Code. This section does not apply to bond elections.

General Obligation Bond Elections

IDAHO CONSTITUTION ARTICLE VIII, SECTION 3. LIMITATIONS ON COUNTY AND MUNICIPAL INDEBTEDNESS [EXCERPT].

No county, city, board of education, or school district, or other subdivision of the state, shall incur any indebtedness, or liability, in any manner, or for any purpose, exceeding in that year, the income and revenue provided for it for such year, without the assent of two-thirds of the qualified electors thereof voting at an election to be held for that purpose, nor unless, before or at the time of incurring such indebtedness, provisions shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within thirty years from the time of contracting the same. Any indebtedness or liability incurred contrary to this provision shall be void: Provided, that this section shall not be construed to apply to the ordinary and necessary expenses authorized by the general laws of the state..

34-106. LIMITATION UPON ELECTIONS (EXCERPTS).

On and after January 1, 2011, notwithstanding any other provisions of the law to the contrary, there shall be no more than two (2) elections conducted in any county in any calendar year, except as provided in this section..

(1) The dates on which elections may be conducted are:

(a) The third Tuesday in May of each year; and

(b) The Tuesday following the first Monday in November of each year.

(8) Initiative, referendum, bond, levy and any other ballot question elections conducted by any political subdivision shall be held on the nearest date authorized in subsection (1) of this section which falls more than forty-five (45) days after the clerk of the political subdivision orders that such election shall be held, unless otherwise provided by law.

The election dates for 2011 are: Tuesday, May 17 and Tuesday, November 8.

The election dates for 2012 are: Tuesday, May 15 and Tuesday, November 6.

City bond elections may be held in May or November in any year. The election must be held on

the next election date which falls more than 45 days after the election is ordered.

34-439. DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS.

Notwithstanding any other provision of law, any taxing district which proposes to submit any question to the electors of the district that would authorize any bonded indebtedness shall provide a brief official statement setting forth in simple, understandable language, information on the proposal substantially as follows:

- (1) The total existing indebtedness, including interest accrued, of the taxing district;
- (2) The interest rate which is anticipated on the proposed bond issue, the range of anticipated rates, and the maximum rate if a maximum is specified in the submission of the question; and
- (3) The total amount to be repaid over the life of the bond issue based on the anticipated interest rate, if the bond election is approved.

The verified, official district's statement shall be made a part of the official ballot and be included in the official notice of the election.

50-1019. PURPOSES FOR WHICH BONDS MAY BE ISSUED – LIMITATION ON AMOUNT.

Every city incorporated under the laws of the territory of Idaho or of the state of Idaho shall have power and authority to issue city coupon bonds not to exceed in aggregate at any time, ten per cent (10%) of the assessed full cash valuation [two per cent (2%) of the market value for assessment purposes] of the real and personal property in said city, according to the assessment of the preceding year, for any or all of the purposes specified [in subsections 1 through 10 of this section,] as follows:

1. To provide for constructing, laying out, grading, curbing, draining, sidewalking or otherwise improving streets, alleys, intersections, crossings and crosswalks; and to construct, or aid in the construction of bridges across streams within or contiguous to, or within one (1) mile of the exterior limits of, such city.
2. To provide for the funding, refunding, purchase and redemption of the outstanding indebtedness, bonds may be issued under this section for such purposes, without submission of the question of issuance of such bonds to the electors of the city, when the same can be done to the profit and benefit of such city without incurring any additional liability.

3. To provide for the establishment of hospitals and cemeteries, either within or without the corporate limits of such city.
4. To provide for the purchase, improvement and equipment of lands and buildings thereon, for public parks, monuments, recreation facilities and zoos, either within or without the corporate limits of such city.
5. To provide for the purchase, erection, construction and furnishing of city public libraries.
6. To provide for the establishment of a fire department by the purchase of building sites, buildings, and suitable equipment and apparatus necessary to provide fire protection.
7. To provide for the purchase, acquisition, improvement and equipment of aviation facilities either wholly or partly within or without the corporate limits of such city, or wholly or partly within or without the state of Idaho.
8. To provide for flood control by acquisition and purchase of right-of-way and to establish, alter, enlarge, improve, reconstruct and change the channels of watercourses or any stream, river or body of water within or without the corporate limits of the city.
9. To provide for the acquisition, construction, remodeling, improvement or otherwise, of buildings for public use, together with all necessary appurtenant facilities and equipment, including all necessary land for building sites, either within or without the corporate limits of such city.
10. To provide for the purchase, acquisition, erection and construction of off-street parking sites, structures, buildings, facilities, equipment and appurtenances.
11. To provide for the purchase, acquisition, improvement and equipment of transit systems.

All bonds of any municipality which were issued, sold and delivered to the purchasers thereof prior to April 12, 1967, for the purpose of providing for the building, laying, construction, equipment, extension, enlargement, alteration, improvement or maintenance of storm sewers or sanitary sewerage systems, shall be excluded when determining the aggregate amount of bonds of any city issued hereunder which are outstanding for the purpose of computing the debt limitation provided for in the first paragraph of this section.

50-1026. CITY BONDS — ORDINANCE — ELECTION.

Whenever the city council of a city shall deem it advisable to issue the coupon bonds of such city, the mayor and council shall provide therefor by ordinance, which shall specify and set forth all the purposes, objects, matters and things required by section 57-203, Idaho Code, and make provision for the collection of an annual tax sufficient to pay the interest on such proposed bonds as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within thirty (30) years from the time of contracting the same as required by the constitution and laws of the state of Idaho.

The ordinance shall also provide the date for holding an election that is in accordance with the dates authorized in section 50-405, Idaho Code, which falls more than forty-five (45) days after the clerk of the political subdivision orders that such election shall be held. Notice shall be given in the official newspaper of the city by the county clerk in accordance with election law in title 34, Idaho Code. Such election shall be conducted as other city elections. The voting at such elections must be by ballot, and the ballot used shall be substantially as follows: "In favor of issuing bonds to the amount of dollars for the purpose stated in Ordinance No.," and "Against issuing bonds to the amount of dollars for the purpose stated in Ordinance No." If at such election, held as provided in this chapter, two-thirds (2/3) of the qualified electors voting at such election, assent to the issuing of such bonds and the incurring of the indebtedness thereby created for the purpose aforesaid, such bonds shall be issued in the manner provided by the laws of the state of Idaho.

50-1026A. CITY BONDS — PLEDGE OF REVENUES.

(a) In the ordinance required in section 50-1026, Idaho Code, providing for the issuance of bonds of a city to be issued to acquire, improve, construct or extend a revenue producing system or facility to be owned and operated by the city, the city council may pledge, as an additional source of payment of such bonds, all or any part of the revenues derived or to be derived from rates, fees, tolls, or charges imposed for the services, facilities, or commodities furnished by the revenue producing system or facility to be so acquired, improved or extended.

(b) The notice of the election on bonds provided for in section 50-1026, Idaho Code, shall describe any pledge of revenues made pursuant to this section. The proposition appearing on the ballot provided for in section 50-1026, Idaho Code, shall indicate that the bonds are to be additionally secured by a pledge of revenues of designated revenue producing systems or facilities owned and operated by the city.

(c) The city council of a city may, in the ordinance required in section 50-1026, Idaho Code, providing for the issuance of bonds to which revenues have been pledged as provided in this section, covenant to prescribe and collect reasonable rates, fees, tolls or charges for the services, facilities, or commodities furnished by any revenue producing system or facility owned and operated by the city, all or a portion of the revenues of which have been pledged to bonds of the city as provided in this section, and may covenant to prescribe and collect such rates, fees, tolls or charges as will produce revenues sufficient, in addition to any other requirements of law, to pay all or a portion of the maturing principal of an interest on the bonds to which such revenues have been pledged.

(d) The provisions of section 57-214, Idaho Code, to the contrary notwithstanding, bonds of a city to which revenues have been pledged as provided in this section, if issued to provide electric improvements or facilities, may be sold in such manner and at such price as the city council may in its discretion determine advisable, provided that such bonds may not be issued to acquire generation, transmission, or distribution facilities owned by other utilities without the consent of the utility owning the improvement or facility. Bonds of a city to which revenues have been pledged as provided in this section may be issued in coupon or registered form. The city council may provide for the use of a portion of the proceeds of sale of bonds to which revenues have been pledged as provided in this section to pay interest on the bonds during the period to be covered by the construction of the facility or improvement for which the bonds are to be issued and to establish such reserves as the city council shall deem to be necessary.

(e) The provisions of section 50-1041, Idaho Code, shall not apply to bonds of a city to which revenues have been pledged as provided in this section. Such bonds shall be deemed not to have been issued under the revenue bond act.

Revenue Bond Elections

IDAHO CONSTITUTION ARTICLE VIII, SECTION 3. LIMITATIONS ON COUNTY AND MUNICIPAL INDEBTEDNESS [EXCERPT].

...and provided further that any city may own, purchase, construct, extend, or equip, within and without the corporate limits of such city, off street parking facilities, public recreation facilities, and air navigation facilities, and for the purpose of paying the cost thereof may, without regard to any limitation herein imposed, with the assent of two-thirds of the qualified electors voting at an election to be held for that purpose, issue revenue bonds therefor, the principal and interest of which to be paid solely from revenue derived from rates and charges for the use of, and the service rendered by, such facilities as may be prescribed by law, and provided further, that any city or other political subdivision of the state may own, purchase, construct, extend, or equip, within and without the corporate limits of such city or political subdivision, water systems, sewage collection systems, water treatment plants, sewage treatment plants, and may rehabilitate existing electrical generating facilities, and for the purpose of paying the cost thereof, may, without regard to any limitation herein imposed, with the assent of a majority of the qualified electors voting at an election to be held for that purpose, issue revenue bonds therefor, the principal and interest of which to be paid solely from revenue derived from rates and charges for the use of, and the service rendered by such systems, plants and facilities, as may be prescribed by law...

IDAHO CONSTITUTION ARTICLE VIII, SECTION 3D. MUNICIPAL ELECTRIC SYSTEMS – AUTHORIZED INDEBTEDNESS.

Notwithstanding the limitations and requirements of Section 3, Article VIII, of the Constitution of the State of Idaho, any city owning a municipal electric system may:

- (a) acquire, construct, install and equip electric generating, transmission and distribution facilities for the purpose of supplying electricity to customers located within the service area of each system established by law and for the purpose of paying the cost thereof, may issue revenue bonds with the assent of a majority of the qualified electors voting at an election held as provided by law; and
- (b) incur indebtedness or liability under agreements to purchase, share, exchange or transmit wholesale electricity for the use and benefit of customers located within such service area;

provided that any revenue bonds, indebtedness or liability shall be

payable solely from the rates, charges or revenues derived from the municipal electric system and shall not be secured by the full faith and credit or the taxing power of the city, the state or any political subdivision.

IDAHO CONSTITUTION ARTICLE VIII, SECTION 3E. AIRPORTS AND AIR NAVIGATION FACILITIES – AIRPORT RELATED PROJECTS – REVENUE AND SPECIAL FACILITY BOND FINANCING.

Political subdivisions of the state and regional airport authorities as defined by law, if operating an airport, may acquire, construct, install, and equip land, facilities, buildings, projects or other property, which are hereby deemed to be for a public purpose, to be financed for, or to be leased, sold or otherwise disposed of to persons, associations or corporations, or to be held by the subdivision or regional airport authority, and may in the manner prescribed by law issue revenue and special facility bonds to finance the costs thereof; provided that any such bonds shall be payable solely from fees, charges, rents, payments, grants, or any other revenues derived from the airport or any of its facilities, structures, systems, or projects, or from any land, facilities, buildings, projects or other property financed by such bonds, and shall not be secured by the full faith and credit or the taxing power of the subdivision or regional airport authority. No provision of this constitution including, but not limited to, sections 3 and 4 of article VIII and section 4 of article XII, shall be construed as a limitation upon the authority granted under this section.

34-106. LIMITATION UPON ELECTIONS (EXCERPTS).

On and after January 1, 2011, notwithstanding any other provisions of the law to the contrary, there shall be no more than two (2) elections conducted in any county in any calendar year, except as provided in this section...

- (1) The dates on which elections may be conducted are:
 - (a) The third Tuesday in May of each year; and
 - (b) The Tuesday following the first Monday in November of each year.

- (8) Initiative, referendum, bond, levy and any other ballot question elections conducted by any political subdivision shall be held on the nearest date authorized in subsection (1) of this section which falls more than forty-five (45) days after the clerk of the political subdivision orders that such election shall be held, unless otherwise provided by law.

The election dates for 2011 are: Tuesday, May 17 and Tuesday, November 8.

The election dates for 2012 are: Tuesday, May 15 and Tuesday, November 6.

City bond elections may be held in May or November in any year. The election must be held on the next election date which falls more than 45 days after the election is ordered.

34-439. DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS.

Notwithstanding any other provision of law, any taxing district which proposes to submit any question to the electors of the district that would authorize any bonded indebtedness shall provide a brief official statement setting forth in simple, understandable language, information on the proposal substantially as follows:

- (1) The total existing indebtedness, including interest accrued, of the taxing district;
- (2) The interest rate which is anticipated on the proposed bond issue, the range of anticipated rates, and the maximum rate if a maximum is specified in the submission of the question; and
- (3) The total amount to be repaid over the life of the bond issue based on the anticipated interest rate, if the bond election is approved.

The verified, official district's statement shall be made a part of the official ballot and be included in the official notice of the election.

50-1029. DEFINITIONS.

For the purpose of this act, unless a different meaning clearly appears from the context, the following terms shall be ascribed the following meanings:

- (a) The term "works" shall include water systems, drainage systems, sewerage systems, recreation facilities, off-street parking facilities, air-navigation facilities or any of them as herein defined;
- (b) The term "water system" shall include reservoirs, storage facilities, water mains, conduits, aqueducts, pipelines, pumping stations, filtration plants, and all appurtenances and machinery necessary or useful for obtaining, storing, treating, purifying or transporting water for domestic uses or purposes. The term "domestic uses or purposes" includes by way of example but not by way of limitation the use of water at any temperature for space

heating or cooling, culinary, sanitary, recreational or therapeutic purposes;

(c) The term "sewerage system" shall include intercepting sewers, outfall sewers, force mains, collecting sewers, pumping stations, ejector stations, treatment plants, structures, buildings, machinery, equipment, connections and all other appurtenances necessary, useful or convenient for the collection, transportation, treatment, purification, and disposal of the sewage of any city or any part of territory included within the territorial limits of any city;

(d) The term "off-street parking" shall include all machinery, equipment and appurtenances, including lands, easements, rights-of-way and buildings required, necessary or useful for the parking of motor vehicles on lands or places other than public highways;

(e) The term "airport facilities and air-navigation facilities" shall include land acquisition, construction costs, buildings, equipment, and other necessary appurtenances, either wholly or partly within or without the corporate limits of such city, or wholly or partly within or without the state of Idaho;

(f) The term "rehabilitate existing electrical generating facilities" shall include the reconstruction, replacement, and betterment of existing generation facilities, properties and other related structures, together with all necessary equipment and appurtenances related thereto, used in or useful for the generation of electricity, including power plants, turbine generators, dams, penstocks, step-up transformers, electrical equipment and other facilities related to hydroelectric production plants, and related facilities for flood control, environmental, public recreation and fish and wildlife mitigation and enhancement purposes made necessary in order to comply with applicable state and federal requirements, but does not include transmission and distribution lines and their related structures, equipment and appurtenances.

(g) The term "drainage system" shall include ditches, channels, creeks, ponds, intake structures, diversion structures, levies, storm sewers, pump stations, force mains, buildings, easements, machinery, equipment, connections and all other appurtenances necessary, useful or convenient for the collection, treatment and disposal of any surface water, nuisance ground or subsurface water or stormwater of any city.

50-1030. POWERS.

In addition to the powers which it may now have, any city shall have power under and subject to the following provisions:

- (a) To acquire by gift or purchase and to construct, reconstruct, improve, better or extend any works within or without the city, or partially within or partially without the city, or within any part of the city, and acquire by gift or purchase lands or rights in lands or water rights in connection therewith, including easements, rights-of-way, contract rights, leases, franchises, approaches, dams and reservoirs; to sell excess or surplus water under such terms as are in compliance with section 42-222, Idaho Code, and deemed advisable by the city; to lease any portion of the excess or surplus capacity of any such works to any party located within or without the city, subject to the following conditions: that such capacity shall be returned or replaced by the lessee when and as needed by such city for the purposes set forth in section 50-1028, Idaho Code, as determined by the city; that the city shall not be made subject to any debt or liability thereby; and the city shall not pledge any of its faith or credit in aid to such lessee;
- (b) To rehabilitate existing electric generating facilities;
- (c) To exercise the right of eminent domain for any of the works, purposes or uses provided by this act, in like manner and to the same extent as provided in section 7-720, Idaho Code;
- (d) To operate and maintain any works or rehabilitated existing electrical generating facilities within or without the boundaries of the city, or partially within or without the boundaries of the city, or within any part of the city;
- (e) To issue its revenue bonds hereunder to finance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment or extension of any works, or to finance, in whole or in part, the cost of the rehabilitation of existing electrical generating facilities;
- (f) To prescribe and collect rates, fees, tolls or charges, including the levy or assessment of such rates, fees, tolls or charges against governmental units, departments or agencies, including the state of Idaho and its subdivisions, for the services, facilities and commodities furnished by such works, or by such rehabilitated existing electrical generating facilities, and to provide methods of collections and penalties, including denial of service for nonpayment of such rates, fees, tolls or charges;

(g) To pledge an amount of revenue from such works or rehabilitated existing electrical generating facilities (including improvement, betterment or extensions thereto, thereafter constructed or acquired) sufficient to pay said bonds and interest as the same shall become due, and to create and maintain reasonable reserves therefor. Such amount may consist of all or any part or portion of such revenues. In determining such cost, there may be included all costs and estimated costs of the issuance of said bonds; all engineering, inspection, fiscal and legal expenses and interest which it is estimated will accrue during the construction period and for six (6) months thereafter on money borrowed or which it is estimated will be borrowed pursuant to sections 50-1027 through 50-1042, Idaho Code, and the costs of any bond reserve funds or working capital deemed necessary in connection with the bond issue;

(h) In the procurement of off-street parking sites, facilities, equipment and appurtenances, any city shall have power, in addition to those heretofore conferred, to pledge the net revenues to be derived from on-street parking facilities not otherwise pledged, to be combined with the rates, fees, tolls and charges to be derived from the operation of off-street parking facilities, after the payment of all operative and maintenance costs, to the payment of revenue bonds and interest thereon issued under the authority of the revenue bond act;

(i) To issue bonds for the purpose of refunding any bonds theretofore issued under authority of the revenue bond act and to pay accrued interest and applicable redemption premiums on the bonds to be refunded, if the bonds to be refunded are due, callable or redeemable by their terms on or prior to the date that the refunding bonds are issued, or will become due, callable or redeemable by their terms within twelve (12) months thereafter, or if the bonds to be refunded, even though not becoming due, callable or redeemable within such period, are voluntarily surrendered by the holders thereof, for cancellation at the time of the issuance of the refunding bonds. All or part of any issue may be refunded and all or part of several issues may be refunded into a single issue of refunding bonds. There may be included with the refunding bonds, as part of a single issue, or in combination in one or more series, bonds for any other purpose or purposes for which bonds are authorized to be issued under the revenue bond act. Refunding bonds shall be issued and secured in such manner as may be provided in the proceedings authorizing their issuance and as otherwise provided in the revenue bond act, and such changes may be made in the security and revenue pledged to the payment of the bonds so refunded, as provided by the governing body in the proceedings authorizing such bonds. No election on the issuance of refunding bonds shall be required, but if by an increase in the amount of bonds or by

changes in the security or pledged revenues, the requirements of the constitution for an election shall become applicable, or if refunding bonds are combined into a single issue with bonds authorized for nonrefunding purposes, then such bonds with changes in security or revenues, or such bonds in excess of the amount of bonds refunded, as the case may be, must have been approved at an election as otherwise provided in the revenue bond act and the constitution. Refunding bonds may be exchanged for not less than a like principal amount of bonds authorized to be refunded, may be sold, or may be exchanged in part and sold in part. If sold, the proceeds of the sale, not required for the payment of expenses, and in any event, in an amount sufficient to assure the retirement of the bonds refundable, when such bonds become available for retirement, if not applied to a simultaneous payment and cancellation of the bonds refunded shall be escrowed with a bank or trust company and may be invested in United States government obligations or in obligations unconditionally guaranteed by the United States of America in such manner as may be provided in the authorizing proceedings.

50-1035. ORDINANCE PRIOR TO CONSTRUCTION – ELECTION.

Before any city shall construct or acquire any works or rehabilitated existing electrical generating facilities under this chapter, the council of such city shall enact an ordinance or ordinances which shall, (a) set forth a brief and general description of the works or rehabilitated existing electrical generating facilities, and if the same are to be constructed, a reference to the preliminary report or plans and specifications which shall theretofore have been prepared and filed by an engineer chosen for that purpose; (b) set forth the cost thereof estimated by the engineer chosen as aforesaid; (c) order the construction or acquisition of such works or the rehabilitation of such existing electrical generating facilities; (d) direct that revenue bonds of the city shall be issued pursuant to this chapter in such amount as may be necessary to pay the cost of the works or rehabilitated existing electrical generating facilities; and (e) contain such other provisions as may be necessary in the proposal.

Such ordinance shall be passed, approved and published as provided by law for the enactment of general ordinances, but such city shall not incur or authorize in any year any indebtedness or liability under said ordinance exceeding in that year, the income and revenue provided for it for such year, without the assent of two-thirds (2/3) of the qualified electors of such city voting at an election held for the purpose of authorizing or refusing to authorize the indebtedness or liability provided for in said ordinance; provided, that any city may, with the assent of a majority of the qualified electors voting at an election to be held for such purpose, issue revenue bonds for the purpose of providing funds to own, purchase, construct, extend or equip, within and without the corporate limits of such city, water systems, sewerage systems, water treatment plants, sewerage treatment

plants, or to rehabilitate existing electrical generating facilities, the principal and interest of which to be paid solely from the revenue derived from rates and charges for the use of, and the service rendered by such systems, plants and facilities.

Said ordinances shall provide for the holding of said election in accordance with the dates authorized in section 50-405, Idaho Code, by the county clerk in accordance with the provisions of title 34, Idaho Code. The notice of election shall set forth the purpose of said ordinance, the amount of bonds authorized by it, the maximum number of years from their respective dates for which such bonds may run, the voting places, the hours between which the polls will be open and the qualifications of voters who may vote thereat. In all other respects such election shall be conducted as are other city elections. The voting at such elections must be by ballot, and the ballots used shall be substantially as follows:

"In favor of issuing revenue bonds for the purposes provided by Ordinance No."

"Against the issuance of revenue bonds for the purposes provided by Ordinance No."

If, at such election, the required vote is in favor of issuing such revenue bonds, then such city may issue such bonds and create such indebtedness or liability in the manner and for the purpose specified in said ordinance.

Recount of Ballots: Idaho Code Title 34, Chapter 23

34-2301. APPLICATION FOR RECOUNT OF BALLOTS.

(1) Any candidate for federal, state, county or municipal office desiring a recount of the ballots cast in any nominating or general election or person supporting or opposing a state, county or city measure, may apply to the attorney general therefor, within twenty (20) days of the canvass of such election, by the state board of canvassers if for federal and state office, or within twenty (20) days of the canvass of such election by the county commissioners if for a county or municipal office.

(2) Candidates for all other offices and supporters and opponents to all other ballot measures desiring a recount may apply to the county clerk within twenty (20) days of the canvass of said election by the board of county commissioners.

34-2302. PRECINCTS SPECIFIED FOR RECOUNT - REMITTANCE.

In his application he shall state the precinct or precincts in which he desires recount to be made and shall remit to the attorney general or county clerk, pursuant to section 34-2301, Idaho Code, together with his application the sum of one hundred dollars (\$100) for each such precinct in which he desires a recount made.

34-2303. BALLOTS ORDERED IMPOUNDED BY ATTORNEY GENERAL.

Upon receiving the application for recount together with the remittance required by section 34-2302, Idaho Code, the attorney general or county clerk, pursuant to section 34-2301, Idaho Code, shall cause all ballot boxes used in such election in the precinct or precincts in which recount is to be made to be immediately impounded and taken into custody by the sheriff of the county or counties in which precinct or precincts are located. In the event that the recount is of the results of a primary election the ballot boxes used to hold the blank half of the ballot shall also be impounded.

34-2304. ORDER FOR RECOUNT — PROCEDURE — NOTICE.

The attorney general or county clerk shall then issue an order for recount. The order shall name the prior election judges and clerks of the precinct to act in the same capacity and receive the same compensation as they did on election day. The order shall provide for the place where the recount is to be made; that all candidates named on the ballot for the office contested, or a representative of either or all of them, may be present to watch the counting; and that every other person interested may be present. The order shall state the date on which the recount is to be made which shall not be more than ten (10) days from the date of the order. Copies of the order shall be mailed to each candidate named on the ballot for the office to be recounted.

34-2305. MANNER OF RECOUNTING.

At the time and place fixed for recounting the ballots cast in any precinct all ballots shall be recounted in plain view of the candidates or their representatives, and if the recount is of a primary election the blank ballots shall be counted against the ballots that were voted. The recount shall commence at the time and place so ordered, and shall continue until the recount is finished and the results tabulated. The attorney general shall be the final authority concerning any question which arises during the recount for federal, state, county or municipal elections. The county prosecuting attorney shall be the final authority concerning any question that arises during the recount of other elections.

34-2306. DIFFERENCE REVEALED BY RECOUNT — CANDIDATE RELIEVED OF COSTS.

If the results of the recount indicate a difference, which if projected across all the precincts of the office in question would change the result of the election in favor of the candidate requesting the recount or change in the measure being recounted, then the cost of such recount shall be borne by the county or state and the sums of money theretofore paid for the recount shall be returned to the candidate or person who requested the recount of a ballot measure.

In order to be relieved of the costs of the recount, the candidate or person must request that at least twenty (20) precincts containing not less than five thousand (5,000) votes cast be recounted if for a federal or state office or measure, or five (5) precincts containing not less than one thousand two hundred fifty (1,250) votes cast be recounted for a state legislative district office, or at least two (2) precincts having not less than five hundred (500) votes cast be recounted for a county office or measure, or two (2) precincts having

not less than two hundred (200) votes cast to be recounted in city or district elections.

34-2307. WHEN GENERAL RECOUNT ORDERED.

If the candidate or person who requested the recount is relieved of the costs of the recount as described in section 34-2306, Idaho Code, the attorney general shall require a recount to be made in all the remaining precincts of the office in question. The state shall pay for a general recount of a federal, state, or legislative district office, while the county shall pay for a general recount of a county, city or district office.

34-2308. CANDIDATE DISAGREEING WITH RECOUNT RESULTS - APPEAL.

(1) Any candidate or person may appeal the results of a recount or the determination that a recount is not necessary when:

(a) Any candidate for the office or the person on either side of a measure for which a recount has been requested disagrees with the results of the recount and alleges that the law has been misinterpreted or misapplied;

(b) It appears that a different application or interpretation of the law would have required a general recount where no general recount was ordered; or

(c) It appears that a different application or interpretation of the law would not have required a general recount where a general recount was ordered;

then the candidate claiming the misinterpretation or the misapplication of law may appeal to the district court in the county concerned if the office is a county, municipal or district office or to the district court in Ada county if the office is a federal or state office.

(2) The submittal on appeal shall be by brief and submitted within twenty-four (24) hours following the recount. The appeal submittal shall be served upon the attorney general of Idaho or the county prosecuting attorney within twenty-four (24) hours of filing it within the district court. The appeal submittal shall also be served upon the opposing candidate(s) or representatives of the pro and con sides of the ballot measure within twenty-four (24) hours of filing the appeal in the district court.

(3) The attorney general, in consultation with the secretary of state, may respond to the submittal by brief or the prosecuting attorney, in consultation with the county clerk, may respond for district elections.

(4) The opposing candidate(s) or parties, regarding a measure, may

respond to the submittal by brief.

(5) At the discretion of the district court judge, a hearing may be ordered within five (5) days of the filing of the appeal. All parties required to be served with the appeal may participate fully in the hearing. The judge may determine that the appeal may be decided on the brief without a hearing.

(6) A decision thereon shall be given within five (5) days. Any appeal from the decision of the district court must be taken within twenty-four (24) hours after a decision is rendered. A decision on the appeal shall be given within five (5) days. No further appeal shall be allowed.

34-2309. AUTOMATIC RECOUNT.

A losing candidate for nomination, or election to a federal, state, or county office, or person supporting or opposing a ballot measure, may request a recount of the votes cast for the nomination or election to that office or passage or failure of a measure if the difference between the vote cast for that candidate and for the winning candidate for nomination or election, or the difference between the yes and no votes on a measure, is less than or equal to one-tenth of one percent (0.1%) of the total votes cast for that office. All requests shall be in writing, and filed with the attorney general during the time mentioned in section 34-2301, Idaho Code.

The state shall pay for the automatic recount of a federal, state, or legislative district office, or state measure while the county shall pay for the automatic recount of a county, city or district office or measure.

34-2310. "COSTS" DEFINED.

As used in this chapter, costs of recount shall include the following:

- (1) Travel costs of the office of the attorney general including meals and lodging.
- (2) Normal hourly rate for election judges and clerks who are not employees of the county.
- (3) Mileage for election judges who are not employees of the county.
- (4) Any other costs directly attributable to the recount.

34-2311 & 34-2312. REPEALED.

34-2313. RECOUNT PROCEDURES FOR AUTOMATED TABULATION SYSTEMS.

(1) To ensure the accuracy of automated vote tabulation systems, the county clerk shall follow the recount procedures provided in this section.

(2) The votes from a random selection of ballots shall be tallied by hand and the votes from the same ballots shall be tabulated by an electronic ballot tabulating system. For statewide and federal office or a statewide measure, the number of ballots to be tallied and tabulated shall be equal to at least two (2) precincts of the ballots cast in each county. For all other offices or measures, the number of ballots to be tallied and tabulated shall be equal to the greater of one hundred (100) or five percent (5%) of the ballots cast for the office or measure, distributed by county where applicable.

(3) For a statewide or federal office or a statewide measure, if the results of the hand-tally and the automated vote tally system tabulation within the county differ by one-fourth of one percent (.25%) or less, the remaining ballots shall be recounted using automated vote tabulating systems. Otherwise, the remaining ballots shall be recounted by hand.

(4) For other offices and ballot measures, if the results of the hand-tally and electronic vote tabulating system tabulation differ by less than one percent (1%) or two (2) votes, whichever is greater, the remaining ballots shall be recounted using automated vote tabulating systems. Otherwise, the remaining ballots shall be recounted by hand.

Electioneering at the Polls

18-2318. ELECTIONEERING AT POLLS.

(1) On the day of any primary, general or special election, no person may, within a polling place, or any building in which an election is being held, or within one hundred (100) feet thereof:

- (a) Do any electioneering;
- (b) Circulate cards or handbills of any kind;
- (c) Solicit signatures to any kind of petition; or
- (d) Engage in any practice which interferes with the freedom of voters to exercise their franchise or disrupts the administration of the polling place.

(2) No person may obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place.

(3) Any election officer, sheriff, constable or other peace officer is hereby authorized, and it is hereby made the duty of such officer, to arrest any person violating the provisions of subsections (1) and (2) of this section, and such offender shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor exceeding one thousand dollars (\$1,000).

Political Signs

18-7029. PLACING POSTERS OR PROMOTIONAL MATERIAL ON PUBLIC OR PRIVATE PROPERTY WITHOUT PERMISSION.

It shall be unlawful for any person to erect, install, attach or paint, or cause to be erected, installed, attached or painted, election posters or signs upon public or private property, real or personal, in the state of Idaho, without permission from the owner or occupant of such property, and it shall be unlawful for any person to place or leave any literature or other political, promotional or sales materials upon public or private property, real or personal, in the state of Idaho when the owner or occupant of such property, by a sign conspicuously posted on the property, or by other written or audio communication to such person, has forbidden the placing or leaving of literature or other political, promotional or sales material upon that property. Provided, however, that the granting of such permission by any public utility company on behalf of any candidate for public office shall constitute the granting of like permission by such public utility company to all other candidates for the same public office. Any violation of this section shall be a misdemeanor.

Sale of Package Liquor and Liquor by the Drink on Election Day

23-307. DAYS WHEN SALES [FROM LIQUOR STORES] ARE PROHIBITED.

It shall be unlawful to transact the sale or delivery of any alcoholic liquor in, on, or from the premises of any state liquor store or distributing station:

- (a) After the closing hours as established by the division.
- (b) On any Thanksgiving, Christmas or Memorial Day.
- (c) On any Sunday, except as provided by county option pursuant to section 23-308, Idaho Code.
- (d) During such other periods or days as may be designated by the division.

State liquor stores and contract liquor stores may be open and sell package liquor during city elections.

23-927. HOURS OF SALE OF LIQUOR [BY THE DRINK] [EXCERPT].

(1) No liquor shall be sold, offered for sale, or given away upon any licensed premises, and all liquor not in sealed bottles must be locked in a separate room or cabinet during the following hours:

- a. Sunday, Memorial Day, Thanksgiving and Christmas from 1 o'clock A.M., to 10 o'clock A.M. the following day; provided however, that on any Sunday not otherwise being a prescribed holiday, it shall be lawful for a licensee having banquet area or meeting room facilities, separate and apart from the usual dispensing area (bar room) and separate and apart from a normal public dining room unless such dining room is closed to the public, to therein dispense liquor between the hours of 2 o'clock P.M. and 11 o'clock P.M. to bona fide participants of banquets, receptions or conventions for consumption only within the confines of such banquet area or meeting room facility.
- b. On any other day between 1 o'clock A.M. and 10 o'clock A.M.
- c. When any city or county has any ordinance further limiting the hours of sale of liquor, by the drink, then such hours shall be fixed by such ordinance.

(2) A county or city may, however, by ordinance, allow the sale of liquor by the drink on a Sunday, Memorial Day and Thanksgiving, and may also extend until 2 o'clock A.M. the hours of the sale of liquor by the drink...

Bars may sell liquor by the drink during city elections unless the city has an ordinance prohibiting sale of liquor by the drink during city elections.

Liquor by the Drink Elections

23-916. COUNTY AND CITY LICENSES.

In addition to the licensing and control herein provided for the retail sale of liquor by the drink, each county and incorporated city in the state of Idaho is hereby authorized and empowered to license the sale of liquor by the drink at retail within the corporate limits of such city. The respective local authorities may impose and collect license fees for the use and benefit of such city not to exceed seventy-five percent (75%) of the amount of the license fee collected by the director as herein provided and for the use and benefit of such county not to exceed twenty-five percent (25%) of the amount of the license fee collected by the director as herein provided. The governing authority of such city may provide further regulations for the control of such business, and the board of county commissioners of any county may fix the fee for, and may regulate and control the use of, any license issued for the sale of liquor by the drink at retail in any licensed premises not situate within the incorporated limits of any city, not in conflict with the provisions of this act.

23-917. REFERENDUM — LOCAL OPTION.

No license shall be issued hereunder until on or after July 1, 1947. Within sixty (60) days after the effective date of this chapter a petition in writing signed by not less than twenty percent (20%) of the registered, qualified electors of any city may be filed with the clerk of said city as their protest against the issuance of any license in said city under the provisions of this chapter. In the event said petition is presented, the governing body of any such city shall, within five (5) days after the presentation of said petition, meet and determine the sufficiency thereof by ascertaining whether said petition is signed by the required number of registered, qualified electors of the city affected. In the event the governing body of said city determines that said petition is signed by the required percentage of registered, qualified electors, said city governing body shall forthwith make an order calling an election to be held within said city, subject to the provisions of section 34-106, Idaho Code, in accordance with the provisions of title 34, Idaho Code, which shall apply to the holding of the election provided for in this section, except where specifically modified herein. In addition to the other requirements of law, the notice of election shall notify the electors of the issue to be voted upon at said election.

23-918. FORM OF BALLOT.

The county clerk must furnish the ballots to be used in such election, which ballots must contain the following words:

"Sale of liquor by the drink, Yes,"

"Sale of liquor by the drink, No,"

and the elector in order to vote must indicate the elector's choice opposite one (1) of the questions in a space provided therefor.

23-919. EFFECT OF ELECTION - LIQUOR STORE SALES NOT AFFECTED.

Upon a canvass of the votes cast, the county board of canvassers shall certify the result to the city who shall report the results to the director. If a majority of the votes cast are "Sale of liquor by the drink, Yes," licenses shall be issued in said city as in this chapter provided. If a majority of the votes cast are "Sale of liquor by the drink, No," then no licenses shall be issued in said city unless thereafter authorized by a subsequent election in said city; provided, however, that nothing herein contained shall be construed to prevent or prohibit the sale of liquor at or by a state liquor store or state distributor.

23-920. SUBSEQUENT ELECTIONS.

A similar election may be subsequently called and held upon the issue of whether the sale of liquor by the drink shall be prohibited or, if prohibited, then an election to determine whether the sale of liquor by the drink shall be licensed. Such subsequent election shall be held upon the filing of a petition, as provided in section 23-917, signed by the requisite percentage of qualified electors. No such subsequent election shall be held prior to November 1, 1949, or oftener than two (2) years after the holding of any such subsequent election.

Frequently Asked Questions

1. Are term limits in effect for the 2011 general city elections?

No. Idaho's term limits statute was repealed by the 2002 Idaho Legislature. There are no restrictions on the number of terms city mayors and councilmembers may serve.

2. Who keeps the election ballots and documents: the city or the county? How long must these records be retained?

Responsibility for retention of election records will be split between cities and counties.

Since the city clerk remains responsible for receiving filing forms from candidates, the Declaration of Candidacy, Petition of Candidacy and Declaration of Intent will be retained by the city and pursuant to the provisions of Idaho Code 50-907(1)(g) these are permanent records that cannot be destroyed. Likewise, since the city clerk is responsible for overseeing campaign finance reporting in cities over 5,000 population, these reports will also be retained by the city and pursuant to Idaho Code 50-907(1)(g) must be retained permanently. Permanent records must be retained by the city in perpetuity or be transferred to the State Archives upon resolution of the city council.

Any records prepared by the county during the course of the election will be retained by the county after the election and are subject to the retention periods set forth in Idaho Code 34-217. Some of these records include: poll books, tally books, sample ballots, voted ballots, unvoted ballots, notices of election, maps of precinct boundaries, lists of absentee voters, completed absentee request forms, and absentee ballot affidavit envelopes.

3. If a person gets married and moves outside of city limits but still has rental property in the city, can that person vote in city elections?

No. If a qualified elector moves outside the city with the intention of making the new residence their permanent home, then they are no longer a city resident and cannot vote in city elections—Idaho Code 50-402(d)(4).

4. Does a person have to be a United States citizen to vote in city elections?

Yes. Every elector who registers is required to swear under oath or affirmation that he/she is a citizen of the United States—Idaho Code 34-411.

5. Does a convicted felon have the right to vote?

In the case of felons, if the individual has completed the terms of sentence including probation or parole, he/she may register and vote—Idaho Code 18-310.

6. A candidate signed her name as Mildred C. Fisher on the Declaration of Candidacy but is known as Catherine Fisher. Can we put her name as Catherine Fisher on the ballot?

No. The name on the ballot must appear exactly as the name is written on the candidate's Declaration of Candidacy. The city clerk should advise candidates that how their name is written on the declaration is how their name will appear on the ballot.

7. Can an individual sign his or her own Petition of Candidacy?

Yes. There is nothing in the law that prohibits an individual from signing their own Petition of Candidacy as long as they are a qualified city elector.

8. May a qualified elector sign petitions for two candidates running for mayor?

Yes. The law no longer requires individuals to sign only one candidate's petition for each office up for election. Now, qualified electors are free to sign as many petitions as they want.

9. How does a candidate get their name on the ballot?

To get their name on the ballot, a candidate must submit a Declaration of Candidacy (see Appendix D for a model form) specifying the office for which they are running and affirming they meet the following legal qualifications to run as of the date their Declaration of Candidacy is submitted to the city clerk:

- At least 18 years of age,
- A U.S. citizen,
- The candidate's primary residence must be within the city,
- The address of the candidate's voter registration must match the residence address provided on the candidate's declaration, and
- The candidate must have resided in the city for at least 30 days prior to submitting their declaration.

The Declaration of Candidacy must be accompanied by **one** of the following:

- A Petition of Candidacy (see Appendix E for a model form) signed by at least five qualified city electors. The petition must have an attached certification from the county clerk indicating the number of signatures that are of qualified city electors,

OR

- A nonrefundable filing fee of \$40—Idaho Code 50-406.

10. Must the city clerk notarize a candidate’s declaration and/or petition or can the candidate have it notarized elsewhere?

Any notary duly authorized by the State of Idaho can notarize a candidate’s declaration and petition.

11. Are people required to show photo identification in order to vote?

To vote a person must either present photo identification or sign a Personal Identification Affidavit. Acceptable forms of photo ID include:

- An Idaho driver’s license or photo Identification Card,
- A U.S. passport or Federal photo Identification Card.
- A tribal photo Identification Card.
- A current student photo Identification Card, issued by an Idaho high school or college.

If a voter is not able to show photo identification, they may vote after signing a Personal Identification Affidavit verifying their name and address—Idaho Code 34-1113 & 34-1114.

12. Can candidates campaign on Election Day?

Candidates can campaign on Election Day—however, candidates should be aware that campaigning within or near a polling place on Election Day (known as “electioneering”) is a criminal offense. On Election Day, campaigning or distributing candidate materials within the polling place or in any building in which an election is being held are prohibited. Campaigning or distributing candidate materials are also prohibited within 100 feet of a polling place, whether on public or private property—Idaho Code 18-2318. *It is also important to remember that the prohibition on electioneering applies while voting is occurring at the in-person absentee polling place.*

13. What is required to change the compensation for elected officials?

Ordinances setting compensation for elected officials must be passed by the council ***and published*** at least 75 days prior to any general city election (Thursday, August 25, 2011). The salary change takes effect January 1 following the election—Idaho Code 50-203.

14. Which council positions will be up for election to two-year terms?

Idaho Code 50-704 provides that councilmember vacancies “shall be filled by appointment made by the mayor with the consent of the council, which appointee shall serve only until the next general city election [held in November of each odd-numbered year], at which such vacancy shall be filled for the balance of the original term.”

An appointed councilmember serves until the next general city election in November of an odd-numbered year, at which point:

- If the normal four-year term of office concludes at the end of December of that year, the position is up for election to a four-year term.
- If the normal four-year term of office has two years remaining at the end of December of that year, the position is up for election to the remaining two years of the term. At the end of the two-year term, the position is up for election to a four-year term.

Two-year terms ensure that the city stays on cycle with half of the council positions up for election to four-year terms at the general city election in November of each odd-numbered year—Idaho Code 50-701.

In the November 8, 2011 general city election the only council positions up for election to two-year terms are those filled by appointment in 2010 or 2011, which have a four-year term of office expiring December 31, 2013.

For example, John Smith was appointed on May 5, 2011 to fill a vacant position on the city council that has a term of office expiring December 31, 2013. This position will be up for election on November 8, 2011. Mr. Smith may choose to run to serve the remaining two years of the term of office or may choose to run for another office, including a four-year council position or mayor. Regardless of who is elected, the position will be up for election again in November 2013 for a four-year term.

If Mr. Smith were appointed on May 5, 2011 to fill a vacancy on the city council with a term of office expiring December 31, 2011, the position would be up for election at the November 8, 2011 general city election for a four-year term.

15. Our mayor was appointed since the last election. Is the office up for election this year, and if so, is it for a two or four-year term?

Idaho Code 50-608 provides that “When a vacancy occurs in the office of mayor by reason of death, resignation or permanent disability, the city council shall fill the vacancy from within or without the council as may be deemed in the best interests of the city, which appointee shall serve until the next general city election, at which election a mayor shall be elected for the full four (4) year term.”

If an individual has been appointed mayor in 2010 or 2011, the office is up for election at the 2011 general city elections for a four-year term of office.

16. Can an application for absentee ballot be faxed or emailed?

Yes. The blank application for absentee ballot may be faxed or emailed from the city clerk or county clerk to the elector, and the completed, signed application may be faxed or scanned and emailed from the elector to the county clerk—Idaho Code 34-1002.

17. Our city does not have enough candidates for the council positions up for election. What should we do?

If there are not enough nominated and declared write-in candidates for the council positions up for election, then the vacancies are filled by mayoral appointment and confirmation by a majority of the council. This can be done at the first council meeting in January, assuming there are enough councilmembers to constitute a quorum (a majority of the full council). If not, then the Governor will appoint as many councilmembers as required to constitute a quorum (Idaho Code 59-912) and the remaining vacancies are filled by the normal process of appointment and confirmation.

18. If a candidate misses the deadline for filing a Declaration of Candidacy, can he/she run as a write-in candidate?

Yes. The candidate must file a Declaration of Intent with the city clerk at least 28 days before the election—Idaho Code 50-410 & 34-702A.

19. Can a bar sell liquor by the drink on Election Day? Can liquor stores be open on Election Day?

Bars can sell liquor by the drink during city elections *unless the city has an ordinance prohibiting the sale of liquor by the drink during city elections*—Idaho Code 23-927.

State liquor stores and contract liquor stores are allowed to be open and sell package liquor on Election Day—Idaho Code 23-307.

20. Who canvasses the votes from a city election: the city council or the county commissioners?

The county commissioners will canvass the results of *all* city elections within 10 days after the election—Idaho Code 50-412. The only action required by the city after the election is including the canvassed election results (by precinct, if the city has multiple precincts) in the minutes of the council meeting following the canvass.

21. If there is only one nominated candidate running for each office and no declared write-in candidates, does the city still need to hold an election?

Yes. Some other jurisdictions operate under provisions of law that allow them to cancel elections under such circumstances. However, Idaho law does not have a similar provision for cities.

22. Are residents of the area of city impact allowed to vote in city elections?

No. In order to be a qualified elector, the individual's primary residence must be in the city—Idaho Code 50-402(c).

23. Are candidates required to specify the office for which they are running on their Declaration and Petition of Candidacy?

Yes. Candidates must specify whether they are running for mayor or council on both their Declaration and Petition of Candidacy. If the candidate is running for council in a city that does not have designated council seats, they must also specify on the Declaration of Candidacy whether they are running for a two or four-year council position. If the candidate is running for council in a city that has designated council seats, they must declare the specific seat and term for which they are running on their Declaration of Candidacy—Idaho Code 50-407.

24. May voters register at the absentee polling place?

Yes. Under Idaho Code 34-408, “an individual who is eligible to vote may also register, upon providing proof of residence, at the ‘absent electors’ polling place’ provided in section 34-1006, Idaho Code.”

25. Is the city clerk required to check the signatures on a Petition of Candidacy against the signature on the registration card?

No. Petition signatures must be verified by the county clerk before the petition is submitted to the city clerk. The county clerk will attach a certificate to the petition indicating the number of signatures that are of qualified city electors—Idaho Code 50-410.

26. What happens in the case of a tie vote?

The candidates must appear before the council at a meeting within six days after the votes are canvassed. The tie is resolved by the city clerk flipping a coin—Idaho Code 50-413.

27. How many dates are there for local elections each year? When can city bond, levy, initiative, referendum and advisory question elections be held? Are there any additional dates for recall elections?

Under the election consolidation law there are two election dates per year:

- The third Tuesday in May each year, and
- The Tuesday following the first Monday in November each year.

Schools have two extra dates for bond and levy elections on the second Tuesday in March and the last Tuesday in August.

City elections on bonds, levies, initiatives, referenda, and advisory questions may be held on the May or November dates *in any year*.

The law provides two dates in addition to the May and November dates for recall elections: the second Tuesday in March and the last Tuesday in August—Idaho Code 34-106.

28. Is the city clerk responsible for publishing any legal notices associated with city elections?

The only legal notice the city clerk is required to publish is the notice to potential candidates (see Appendix B for a model form) which must be published once as a legal notice in the official city newspaper between 7 and 14 days prior to the candidate filing deadline—between Friday, August 26 and Friday, September 2, 2011. The notice must include: the name of the city, the date of the election, the offices up for election, that filing forms are available from the city clerk, and the filing deadline—Idaho Code 50-411. The notice of election and sample ballot will be published by the county clerk.

29. What is the period for candidate filing?

The period for candidates to file to get their name on the ballot begins at 8:00 a.m. on Monday, August 29 and ends at 5:00 p.m. on Friday, September 9, 2011.

30. What do I do with the Declarations of Candidacy and Declarations of Intent after they are filed by the candidate?

It is imperative to get these documents to the county clerk's office as soon as possible by fax or email. The city clerk should contact the county election staff in advance and ask for the preferred method of transmitting these documents. The city clerk should also call and confirm that the documents were received.

31. Is there a deadline for candidates to withdraw from the election?

Nominated candidates (those listed on the ballot) have until Friday, September 23 to withdraw from the election by filing a notarized statement of withdrawal with the city clerk (see Appendix G for a model form)—Idaho Code 34-1405A.

Declared write-in candidates may withdraw at any time up to the election by filing a notarized statement of withdrawal with the city clerk (see Appendix G for a model form).

32. What is the process for installing officials elected at the 2011 general city election?

Mayors and councilmembers elected at the 2011 general city election are sworn-in and seated at the first council meeting in January. In preparation for this important event, AIC will mail each city a packet containing instructions for installation of officers, certificates of election and appointment and a copy of the oath of office.

The following procedure for installing elected officials is taken from Idaho Code 50-702, 50-601, and 50-415. The power to administer oaths is taken from Idaho Code 50-607 and 50-207.

1. Incumbents Convene Meeting, Approve Minutes and Payment of Bills.

The incumbent mayor and councilmembers convene the meeting, approve the minutes of any prior meetings, and approve payment of the bills.

2. Officials Subscribe to the Oath of Office.

Each elected official stands, raises their right hand, listens as the oath of office is read by the city clerk, and at the end of the oath responds “I do” or “I will.” The elected official may choose to recite the oath as it is read. Each elected official must sign the oath of office, which is also signed by the city clerk and kept by the city as an official record.

Generally, the oath of office is administered by the city clerk. The mayor may administer the oath of office to councilmembers; however, a newly elected mayor does not have authority to administer oaths until after he/she has taken the oath from the clerk.

3. Presentation of Certificates of Election.

The sworn-in officials each receive a Certificate of Election signed by the mayor and the city clerk. The mayor, even if newly elected and installed, signs the certificates, including their own.

4. Elect President of the Council.

The sworn-in officials take their seats and the council proceeds to elect one of its members to serve as council president. The council may then proceed with other necessary business.

5. Filling Vacancies.

If any mayoral or council vacancies exist, these may be filled by the normal process of appointment.

- ✓ A mayoral vacancy is filled by the council, by the vote of a majority of members present and voting. The appointee serves until the next general city election—November 2013—at which point the office is up for election to a four-year term.
- ✓ For vacancies in the office of councilmember, the position is filled by mayoral appointment and must be confirmed by a majority of councilmembers present and voting. The individual serves until the next general city election—November 2013—at which point the office is up for election as follows.
 - If the normal four-year term of office expires at the end of 2013, the position is up for election to a four-year term.

- If the normal four-year term of office expires at the end of 2015, the position is up for election for the remaining two years of the term at the 2013 general city election. The position is then up for a four-year term in 2015.

Individuals appointed to fill vacancies are sworn-in by the city clerk, sign the oath of office and each receive a Certificate of Appointment (which are available upon request from AIC).

33. What should we do if a person is unable to attend the first council meeting in January to be installed?

The person can be installed at the following council meeting.