



# Procedures for Holding Elections in Mayor - Council Municipalities



## An Alabama League of Municipalities **SPECIAL REPORT**

Prepared for the 2025 Municipal Elections

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# PREFACE

The 1961 Alabama Legislature established the first uniform election procedures for Alabama cities and towns. Although these laws have been amended from time to time, they still provide the basic election procedures used to conduct municipal elections in Alabama.

This Special Report is intended to serve as a comprehensive guide to Alabama's municipal election process for the municipal clerk or other municipal officials or employees who are given the responsibility for conducting municipal elections. It also serves as a reference for candidates running for municipal office.

This report covers the laws relating to election procedures as well as laws pertaining to political activity of government employees, the Fair Campaign Practices Act, the Hatch Act and the State Ethics Law. Sample guidelines and forms to be used in the elections process are included at the back of this publication.

It is extremely important that municipal clerks, and other persons responsible for conducting municipal elections, plan ahead so that the requirements of the law are met without problems.

The League gratefully acknowledges the assistance of the following individuals who reviewed and made suggestions regarding this manual:

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**WES ALLEN**  
SECRETARY OF STATE

September 18, 2024

Dear Municipal Officials:

As Secretary of State, it is a top priority to ensure that Alabama elections are fair, secure, and transparent. It is also a goal of mine to provide high-quality tools to Alabamians as they prepare to both administer and participate in the elections process.

We have worked with the Alabama League of Municipalities to prepare and provide an official Municipal Elections Manual for municipal election officials to utilize. I would encourage you to review this guide carefully as we enter into the 2025 Municipal Election cycle.

If you have any questions, please contact the Elections Division of the Secretary of State's office at 334-242-7210 or consult our website at [www.AlabamaVotes.gov](http://www.AlabamaVotes.gov).

Thank you for your service to your communities and to the Great State of Alabama.

Sincerely,

A handwritten signature in blue ink that reads "Wes Allen". The signature is stylized with a long, sweeping underline.

Wes Allen  
Secretary of State

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# General Elections Information

Persons conducting elections for municipal officials and candidates running for office should use this Special Report as a guide. It is also important that a copy of the Code of Alabama 1975, be kept close at hand for reference.

Included at the end of this report is a listing of important dates and deadlines applicable to municipal elections to be held on August 26, 2025.

## Voting Rights Act of 1965 (“VRA”) - Federal Preclearance Portion of Voting Rights Act No Longer Required

Prior to 2013, municipalities were required to submit any changes in voting procedure to the United States Justice Department for preclearance under the VRA. On June 25, 2013, the United States Supreme Court held that the provision in the Voting Rights Act of 1965 setting forth a coverage formula and preclearance requirement for states and political subdivisions was unconstitutional, and thus could no longer be used as basis for subjecting jurisdictions to preclearance. *Shelby County, Ala. v. Holder*, 133 S.Ct. 2612 (2013). As such, it is no longer required to submit changes in voting procedure to the U.S. Department of Justice for approval. It is important to keep in mind however that while federal preclearance is no longer required, municipalities must vigilantly remain in compliance with the VRA because municipalities are still subject to the substantive provisions of the VRA.

## Statutes

Elections in mayor-council municipalities are conducted pursuant to the general municipal election laws pertaining to mayor-council cities and towns. These laws are codified at Sections 11-46-20 through 11-46-74, Code of Alabama, 1975. Absentee ballot laws applicable to municipal elections are codified at Sections 17-11-1 through 17-11-19, Code of Alabama 1975.

Numerous changes were made to Alabama’s election laws since the 2020 municipal elections. Those changes that are relevant to municipal elections have been incorporated into this manual. Persons conducting municipal elections should be thoroughly familiar with these laws as well as the other laws cited in this publication.

## Election Dates

Section 11-46-20(a), Code of Alabama 1975, provides that general elections in all municipalities, which are not Class 1 municipalities or commission cities or towns, shall be held and conducted at the times and in the manner prescribed by Article 2, Chapter 46, Title 11, Code of Alabama 1975. The expenses and costs incident to the conduct of all such elections shall be paid out of the city or town treasury of the municipality holding the election.

Section 11-46-21(a), Code of Alabama 1975 provides that the regular municipal elections in cities and towns shall be held on the fourth Tuesday in August 2025 and quadrennially thereafter. Runoff elections, if required, shall be held on the fourth Tuesday following the regular election.

Municipal officials elected at regular elections shall assume the duties of their respective offices on the first Monday in November following their election unless otherwise provided by Article 2, Chapter 46, Title 11, Code of Alabama 1975. All officers elected shall serve until their successors are elected and qualified. Section 11-46-21(c), Code of Alabama 1975.

Local laws adopted by the state legislature and applicable to certain enumerated cities or towns may alter these election dates in some instances. See *Siegelman v. Folmar*, 432 So. 2d 1246 (Ala. 1983). Please see the League’s website ([www.almonline.org](http://www.almonline.org)) for a list of municipal election dates.

Any municipality that has election dates established by classification act, local act or general act of local application may continue to use said election dates unless a majority of the members of the governing body vote to use the election dates provided in Article 2, Chapter 46, Title 11, Code of Alabama 1975. See Section 11-46-74, Code of Alabama 1975.

A municipality may, by resolution, postpone its election under the circumstances where the safety of voters is threatened by a natural disaster, such as a hurricane, under Section 11-46-72 Code of Alabama 1975. See e.g. AGO 2004-219 (Attorney General determined municipality could postpone election pursuant to 11-46-72 so that city could prepare for hurricane; however, note preclearance by the Justice Department is no longer required). If any municipal election should not take place on the day appointed, the municipal corporation shall not for that cause be dissolved, but the incumbent officers shall remain in office until their successors shall be elected and qualified. The municipal governing body shall fix some day, as early as convenient, on which day said election shall be held, and the election shall be conducted in all respects as a regular election, and the persons so elected shall hold office until the next general election and until their successors are elected and qualified. Section 11-46-72, Code of Alabama 1975.

### Candidates Can Begin Receiving Campaign Contributions & Campaign for Office - August 26, 2024

#### Setting Salaries - Before February 26, 2025

Alabama law provides that the fees, salary, compensation, or emoluments of any officer, whose election or appointment is required or authorized by statute, may not be increased nor diminished during the term for which the officer was elected or appointed, and no gratuitous appropriation may be made for the benefit of any officer or employee in addition to that salary. Section 11-43-9, Code of Alabama 1975; Section 68 of the Alabama Constitution of 1901.

Section 11-43-2(d), Code of Alabama 1975, provides that the salaries of councilmembers must be fixed by the council at least six months prior to each general municipal election.

Section 11-43-80(b), Code of Alabama 1975 provides that the salary of the mayor must be fixed by the council at least six months prior to each general municipal election. The council may increase the mayor's salary **as superintendent of the utility system** effective immediately without violation of the "six month" prohibition of section 11-43-80(b). AGO 2020-017.

The salary of the mayor and councilmembers must be fixed by the council through passage of an ordinance. If the council fails to take action six months prior to the election, the salary schedule then in existence continues during the next administration. No salary can become effective for council members until the new council is elected in the next general municipal election. AGO 2001-046. Sample ordinances to establish salaries for mayors and councilmembers are provided in the Appendix.

Municipalities that are amending their salary ordinances should strongly consider including a provision tying the salary to council meetings that they attend. Such a provision should, of course, limit the number of paid meetings that may be held during the month. This action encourages officials to attend the meetings and participate in governing the municipality. A sample ordinance paying officials for meetings attended is provided in the Appendix.

Sometimes a governing body might wish to provide that elected officials come under the insurance plans of the city or town with the premiums to be paid by the governing body. Any such intention must be expressed in the salary ordinance as such an action would be deemed to be an increase in compensation and must be voted on at least six months prior to the general municipal election pursuant to Section 11-43-80. AGO 1981-013 (to the Hon. Maurice C. West, October 7, 1980); AGO 1981-197 (to Roy W. Owens, January 28, 1981).

Sections 68 and 281 of the Constitution of Alabama and Section 11-43-9, Code of Alabama 1975, prohibit the granting of an increase or diminishment of the compensation, fees or salary for officers of a municipality during their present term. As a result, the mayor would not be entitled to receive a cost-of-living raise during their present term despite an ordinance which provides that a mayor shall be afforded all benefits now extended, or in the future extended, to all full time employees of the City. AGO 2003-112. If a salary ordinance adopted at least six months prior to the election does provide for a cost-of-living adjustment, though, the newly elected officials are entitled to receive this increase according to terms of the ordinance. AGO 2005-071.

In cases where a governing body is elected on a staggered basis, the salary of all members of the body may be increased upon the expiration of the term of the first member of the body, provided the increase was approved according to law. AGO to the Hon. Dewitt Garrett, February 9, 1978.

### **Election from Wards<sup>1</sup> or At-Large - Before February 26, 2025**

Mayor-council cities and towns may determine whether councilmembers are elected from wards or from the municipality at-large. Any change from at-large to ward elections of councilmembers must be adopted by ordinance by a majority of the governing body at least six months prior to the general municipal election. The number of districts generally cannot be less than 5 or more than 7, except Class 1, 2 or 3 municipalities, which cannot have more than 9, although there are rare exceptions. Section 11-43-63 and Section 11-43-2, Code of Alabama 1975.

Such ordinance shall only be considered only after two weeks public notice has been given, outlining generally the voting districts under consideration. Additionally, the municipal clerk, within five days after the adoption of the ordinance, shall file with the judge of probate of the county or counties in which the municipality lies a certified copy of such ordinance accompanied, by a map or plat of the city or town, showing the boundaries of all such districts. Section 11-43-63, Code of Alabama 1975.

### **At Large Elections: Establishment of Places - On or Before March 31, 2025**

In municipalities elected at large, Section 11-46-22(a), Code of Alabama 1975 provides that prior to the first day of April preceding the election, the council shall by ordinance designate the offices for council by number.

If a municipality has a permanent ordinance establishing numbered places and requiring a candidate to specify the place to which he or she seeks office, no additional ordinance is necessary. It is also unnecessary to adopt such an ordinance in municipalities where councilmembers are elected from single-member wards.

The establishment of places on the council does not carry with it any different responsibilities for those who run for respective places, and after the election, it really makes no difference which place the candidates ran for. The establishment of places is required merely to facilitate the holding of the election in accordance with the municipal election laws of the state.

The question has been raised in the past about whether a candidate for one council place may withdraw his statement of candidacy prior to the deadline for filing statements of candidacy and then file another statement of candidacy for a different place on the council. While such action is unlikely, there appears to be nothing to prevent a candidate from doing this as long as it is done before the deadline for filing statements of candidacy. A person's name may only appear once on the ballot. AGO to the Hon. Walker Hobbie, II, July 18, 1975. If a person chooses to withdraw his statement of candidacy prior to the deadline for filing statements of candidacy and then file another statement for a different place, it is the opinion of the League that the candidate is not entitled to a refund of any qualification fees paid.

A sample ordinance numbering council places is provided in the Appendix.

### **Altering Ward Lines and Voting Districts - Before May 26, 2025**

The one-man-one-vote rule requires near equal population in each ward if a municipality elects its councilmembers by wards. If the population of a municipality has substantially increased as a result of annexations made since the previous election or for other reasons, there may be a need for alteration of ward lines in municipalities which elect councilmembers from wards.

The deadline for ward line changes and the division of wards into voting districts is three months prior to the general election. Section 11-46-23, Code of Alabama 1975; Section 11-40-8, Code of Alabama 1975.

A city may change the locations of designated voting places and add additional voting places after the notice required by Section 11-46-22, Code of Alabama 1975 has been published. However, no changes to voting locations may be made within three months before the election. See AGO 1979-240 (to the Hon. Emory Folmar, July 10, 1979).

Municipalities whose district lines were required by court order should consult with their city attorney before altering district lines.

<sup>1</sup> In this manual, the terms wards and districts are used interchangeably unless the context indicates otherwise.

### Use of Electronic Devices

Although electronic vote counting systems have been around for some time (the state's electronic voting committee was created in 1983), they were first used by a significant number of municipalities during the elections in 1996. Until this point, voting machines and paper ballots were by far the most popular ways to vote. Only a handful of cities and towns used electronic counters.

The League anticipates that in the 2025 elections most, if not all, municipalities will utilize some form of electronic system. Because statutes cannot be amended rapidly enough to keep up with the rapid technological advances and changes in these counters, the legislature empowered a committee to develop regulations to govern their use. This committee has the power to establish rules and regulations for the use of electronic vote counters in Alabama.

In general, regulations of the Electronics Voting Committee refer only to elections conducted by the county. Regulation 307-X-1-.03, though, makes clear that to the extent practicable, the regulations apply in municipalities which use direct recording electronic voting devices or marksense ballot counters. Duties assigned in the rules to a state or county election official are to be performed by the corresponding municipal official. If there is no corresponding municipal official, the clerk performs the duty, unless he or she is "ineligible," which would probably include a situation where the clerk is a candidate or has a family member who is a candidate. In municipal elections, references in the rules to the county governing body mean the municipal governing body.

Regulation 307-X-1-.03 also provides that where the rules refer to a statutory provision that conflicts with specific state laws or acts applicable in municipal elections, the municipal election provision prevails. Therefore, clerks and others must be familiar with these regulations if they plan to use electronic vote counters.

Section 17-7-21, Code of Alabama 1975, authorizes municipalities to establish the use of electronic vote counters in municipal elections. The municipal governing body must adopt a resolution specifying the type of equipment to be used and establishing the procedure for implementation. A copy of the resolution must be filed with the Secretary of State.

In order to be used, an electronic counter must be approved by the Committee. To qualify, a counter must, at a minimum, meet the criteria set out in Sections 17-7-21(b) and 17-2-4, Code of Alabama 1975.

**Note:** Section 17-7-21(a), Code of Alabama 1975, states that cities and counties must adopt a "resolution" establishing the use of electronic vote counters. Keep in mind that counties do not utilize ordinances, they only pass resolutions, and sometimes the legislature generically uses the word resolution. **However, because this will be of a general and permanent nature, it has always been our opinion that what we more commonly refer to as an "ordinance" must be adopted. Ordinances of a general and permanent nature must be adopted with certain formalities including a majority vote of the council (Section 11-45-2, Code of Alabama 1975) and must be published to be effective (Section 11-45-8, Code of Alabama 1975).** So regardless of whether you call it a resolution or an ordinance, it must be adopted with the formality of an ordinance (majority vote and published).

**Also note that in many cases, the electronic devices used in municipal elections will be the same devices as used by the county. The League recommends passing an ordinance adopting the use of the specific type of device in order to comply with the Alabama Code. This ordinance could provide simply that the municipality will use the same type devices as are used in the county elections.**

### Qualification Fees - Before June 5, 2025

Section 11-46-2, Code of Alabama 1975 authorizes municipalities to adopt ordinances establishing and fixing a qualification fee to be imposed upon all candidates seeking election in municipal elections conducted under the general municipal election provisions. The fee, if established, must be no less than ten dollars (\$10.00) and no more than fifty dollars (\$50.00). The ordinance establishing a qualification fee must be adopted by the municipal governing body at least five (5) days prior to the first day upon which a candidate seeking election in a municipal election may qualify.

The Attorney General has advised that a municipality may establish such a qualification fee **only** if the ordinance contains a provision whereby an indigent may become a candidate. This opinion was based on the language in *Thomas v. Mims*, 317 F. Supp. 179 (D.C. Ala. 1970). AG Opinion to Hon. James H. Lackey, April 2, 1973; AG Opinion to Hon. Roy H. Phillips, August 3, 1973. See also *Harper v. Vance*, 342 F. Supp. 136 (D.C. Ala. 1972).

A sample ordinance establishing qualification fees is provided in the Appendix.

### Notice of Election - June 10, 2025

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Notice of the general municipal election is required to be published by the mayor on the second Tuesday in June or the first business day thereafter. Section 11-46-22(a), Code of Alabama 1975.

If a newspaper is published in the municipality, the notice of election must be published at least one time in such newspaper. If no newspaper is published in the municipality, then the notice must be published by posting in three public places in the municipality. The form of the notice should resemble the sample set out in Section 11-46-22(b), Code of Alabama 1975.

While there is no requirement that municipalities which are districted post notice in each district, the League recommends that this be done.

**All registered and qualified electors of the state, who have resided within the corporate limits of the municipality for thirty (30) days or more prior to the election date are authorized to vote in said election. See Section 11-46-22(b), Code of Alabama 1975.**

In brief, the notice gives the date when the election will be held, the offices to be filled, the requirements for voting in the election, and it gives notice where the polling places will be located. This notice should be signed by the mayor and attested by the clerk.

No formal action is required on the part of the council in calling or giving notice of the election. However, if the council has adopted such a resolution or ordinance, such action would **not** relieve the mayor of their duty to publish the notice required by Section 11-46-22, Code of Alabama 1975.

### Statements of Candidacy - Beginning June 10, 2025

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Municipal election laws state that candidates may begin to qualify after the mayor gives the notice of election. Section 11-46-22(a), Code of Alabama 1975. It should be noted that the state legislature, in 1971, abolished primary elections of political parties in cities and towns having less than 300,000 inhabitants. It is further provided that the election of members of municipal governing bodies in cities and towns of less than 300,000 inhabitants shall be by and on a nonpartisan ballot. Section 11-46-3, Code of Alabama 1975.

Statements of candidacy should be in substantially the same form as that found in Section 11-46-25(g), Code of Alabama 1975.

The section further provides that no person may become a candidate for more than one office to be filled at the election. All statements of candidacy filed with the mayor must be preserved for six (6) months after the election. Section 11-46-25(i), Code of Alabama 1975. As a matter of precaution, the statements of candidacy should be received in the office of mayor by both the mayor and the clerk noting the date and the time received with their initials.

Questions have arisen concerning the manner of entering the name of a candidate on the ballot. Candidates should be cautioned to sign their names legibly on their statements as they desire them to appear on the ballot, and also to print their names under their signatures so there will be no mistake in the printing of the ballots.

The Attorney General has ruled that candidates in municipal elections may use a nickname followed by their family or last name on the ballot. The name signed by a candidate on the statement of candidacy is the name that should be printed on the ballot. AGO 1996-00264.

### Statement of Economic Interests

Prior to the passage of Act 2019-529, a candidate for municipal office was required to file a statement of economic interests with the State Ethics Commission *simultaneously* with the date the candidate files their qualifying papers or their name shall not appear on the ballot. Act 2019-529 amended Section 36-25-15 of the Code of Alabama to provide that candidates now have up to five days after filing their qualifying papers to file their statement of economic interests. If a candidate fails to file a statement of economic interest, the law provides that their name shall not appear on the ballot.

Even though the statement of economic interest form is **not** filed with the clerk, the clerk should inform the candidate of the filing requirement when the candidate files their statement of candidacy. Once the clerk receives a declaration of candidacy from a candidate, the clerk must, within five (5) days of the receipt, notify the Ethics Commission of the name of the candidate. The Ethics Commission shall, within five (5) business days of receipt of such notification, notify the election official whether the candidate has complied with the statement of economic interest requirement. Section 36-25-15(b), Code of Alabama 1975.

The Ethics Commission may, in its discretion, allow the candidate an additional five (5) days to file because of mistake, omission, error or other good cause. This extension may be granted at any time before the election official is due to forward the statement to the Ethics Commission. Section 36-25-15, Code of Alabama 1975(c). **Clerks should obtain confirmation from the Ethics Commission on whether the candidate has complied with the statement of economic interest requirement before removing the name of any candidate from the ballot.** A person who already has a current statement on file with the Ethics Commission (the annual report) does not need to file a new statement. Section 36-25-15(a), Code of Alabama 1975. However, the clerk should still obtain confirmation from the Ethics Commission that a current statement of Economic Interest is on file for incumbents.

### Qualification of Candidates

In filing their statements of candidacy, the candidates certify that they are fully qualified to hold the respective offices for which they are candidates if elected thereto. Section 11-43-1, Code of Alabama 1975 provides that every mayor, councilmember and officer elected by the whole electorate of the city or town shall be a resident and qualified elector of the city or town at the time they qualify to run for office and shall reside within the limits of the city or town during the term of office. Councilmembers elected from wards are required to reside within the limits of the wards from which they were elected during their terms of office.

Additionally, all candidates must have been residents of the municipality for at least 90 days prior to the election and be a qualified elector at the time of filing of the statement of candidacy. Sections 11-46-22(b) and 11-46-25, Code of Alabama 1975.

Similarly, candidates for election from wards must have been a resident of the ward they seek to serve for at least 90 days prior to the election. Section 11-43-63, Code of Alabama 1975.

On numerous occasions, the residency requirement set forth herein has been construed to mean actual physical residence and not merely legal residence for voting purposes. The term “resident” refers to domicile or permanent residence as distinguished from temporary residence. Neither residence in the police jurisdiction nor ownership of property within the corporate limits qualifies a person to vote in a municipal election. AGO to the Hon. Chalmers Bryant, February 9, 1972.

Residence, once acquired, cannot be lost by temporary absence with the intention of remaining. Section 17-3-32, Code of Alabama 1975; AGO 80-00442 (to the Hon. Mixon Jones, July 3, 1980); AGO 1992-00284; and AGO 1992-00383.

Persons residing within territory annexed prior to elections may vote in and become candidates in the municipal election. AGO to the Hon. Charles E. Guntharp, June 4, 1972; AGO to the Hon. Gussie R. Calhoun, June 29, 1976.

A candidate does not establish a legal residence merely by stating an intention to reside in a particular district. A candidate must have a physical presence in the district, as well as the intention to reside in the district. AGO 2000-146.

The receipt and filing of statements of candidacy constitute ministerial acts. **The clerk and the mayor have no authority to**

**judge the qualifications of a candidate including residency of the candidate. Their only job is to receive the statements which are properly filled out and see to it that the names of the candidates are properly placed on the ballot.** If a question is raised concerning the qualifications of a candidate, a decision thereon should be made by a court. Before leaving the name of a candidate off the ballot after a proper statement of candidacy and the statement of economic interests have been filed, the mayor should have a court order or Attorney General's Opinion to that effect. See, *Harris v. McKenzie*, 703 So.2d 309 (Ala. 1997).

A municipal candidate who fails to pay their qualifying fee before the qualifying deadline passed has not properly qualified, and their name should not appear on the ballot. If a candidate pays the qualification fee by check and the check is dishonored, the candidate has not met a condition for qualifying as a municipal candidate, i.e., the payment of the fee, and therefore, the candidate's name should not be placed on the ballot. AGO 2000-212.

Section 11-46-25(g) of the Code of Alabama does not authorize an individual to have that individual's name printed on the ballot for the desired municipal office as a qualified elector when the individual is only 17 years of age as of the last day to qualify to run for the office of city council; regardless of whether the individual would turn 18 years of age before the day of the election. AGO 2016-044.

### Final Date to Qualify - June 24, 2025

The clerk closes out receipt of statements of candidacy at 5:00 p.m. on the fourth Tuesday in June preceding the election. This is the final day on which a candidate may qualify to run in the general municipal election in mayor-council cities and towns. Section 11-46-25(g), Code of Alabama 1975. Since the statute requires 5:00 p.m. as the time of the deadline, the League recommends that the clerk's office, regardless of established office hours, remains open until 5:00 p.m. on the deadline date.

### Printing of Ballots

The mayor must cause to be printed on the ballot the names of all qualified electors who filed statements of candidacy by 5:00 p.m. on the fourth Tuesday in June preceding the general municipal election. No names shall be printed on the ballot for a particular office unless more than one statement of candidacy has been filed for that office. **In cases where only one statement of candidacy was filed for a particular office, the mayor must immediately file a written statement with the council certifying the fact that only one person filed a statement of candidacy for that office. At the first regular meeting after receiving such statement, the council shall issue a certificate of election to such person.** Section 11-46-26, Code of Alabama 1975.

Sample forms for this procedure are provided in the Appendix.

Names of candidates for various municipal offices need not be printed in alphabetical order. AGO to the Hon. A. J. Hutcheson, August 15, 1972. However, printing the names alphabetically helps avoid allegations of favoritism.

### No Write-In Candidates Allowed

Section 11-46-43(b), Code of Alabama 1975 provides that electors shall not be entitled to vote for any person whose name does not appear on the ballot and that **no elector shall write in the name of any person on the ballot.** The Attorney General has advised that this section is constitutional. AGO to the Hon. J. L. Buzbee, July 27, 1972. See also *Burdick v. Takushi*, 504 U.S. 428 (1992). In the League's opinion, requirements in Sections 17-7-21(b) and 17-2-4 that electronic devices must allow for write in candidates do not permit or require municipalities to allow write-in voting in the municipal election.

### Withdrawal of Candidates

Any candidate may withdraw as a candidate by giving written notice to the mayor, at any time, prior to the date of the election. Section 11-46-25(j), Code of Alabama 1975. If a candidate withdraws, the election officials shall, if paper ballots are used in the election, draw a line in ink through the name of such candidate. If electronic tabulators are used in the election, the

name of the candidate shall be removed from the ballot in accordance with the manufacturer's guidelines or instructions. Section 11-46-25(j), Code of Alabama 1975. In the event that a candidate submits a notification of withdrawal, the appropriate canvassing board may not certify any votes for the candidate. Section 17-6-21(c), Code of Alabama 1975.

All notices of withdrawal filed with the mayor shall be preserved for six (6) months after the election. Section 11-46-25(i), Code of Alabama 1975.

### The Fair Campaign Practices Act

The Fair Campaign Practices Act (FCPA) sets out the rules for how and when candidates can raise and spend money. The law also specifies how campaign finance activities are reported. It is the candidate's responsibility to comply with the FCPA. Incumbents should not use municipal resources or municipal personnel to fill out or file FCPA forms, as it could result in violations of election laws and ethics laws.

### Municipal Candidates Now Must File FCPA Forms Electronically with the Alabama Secretary of State

In the 2021 Regular Legislative Session, Act 2021-314 changed a portion of FCPA that directly impacts municipal candidates. The act changed the filing procedure so that, commencing with the 2024 municipal election cycle, all campaign committees must now file *electronically* with the Alabama Secretary of State. Prior to the change, municipal candidates were required to file with their county probate judge. FCPA forms are no longer filed with probate judges, but instead, they are now electronically filed with the Secretary of State. Section 17-5-9(a), Code of Alabama 1975.

### Municipal Candidates Only File FCPA Forms if They Raise or Spend Over \$1,000

Act 2024-104 changed a different portion of the FCPA for regarding municipal candidates. This act provides that: "A candidate running for office is exempt from filing requirements of Sections 17-5-4 and 17-5-8, Code of Alabama 1975, unless and until the candidate receives contributions or makes expenditures in excess of one thousand dollars (\$1,000)."

In other words, municipal candidates are *no* longer required to file an Appointment of Principal Campaign Committee form or any monthly or weekly campaign disclosure reports after they qualify unless or until the candidate raises or spends more than \$1,000. This act relieves the filing burden for many municipal candidates who do not raise or spend \$1,000. Section 17-5-4.1, Code of Alabama 1975.

**While this may relieve the burden for filing FCPA forms, it is important to note that candidates must still file a Statement of Economic Interests form with the Alabama Ethics Commission.**

Candidates may begin receiving and spending money 12 months prior to the August 26, 2025, municipal general election. If a candidate raises or spends more than \$1,000, they must file electronically with the Secretary of State as soon as they meet the threshold amount. Section 17-5-4.1, Code of Alabama 1975. Campaign finance reports can be filed electronically on the Secretary of State's website at <https://www.sos.alabama.gov/alabama-votes/media/campaign-finance-reports>.



### FCPA Filing Requirements

The FCPA, Sections 17-5-1 through 17-5-21, Code of Alabama 1975, requires all candidates who receive contributions or make expenditures of one thousand dollars (\$1,000) or more to report their contributions or expenditures. Candidates who do not meet the \$1,000 threshold do not have to report contributions or expenditures. However, all elected officials who have not closed their principal campaign committee must still file an annual statement in January.<sup>2</sup>

<sup>2</sup> No annual report is required to be filed by a person who holds office because he or she was appointed to serve the remainder of a vacated term until the person serving creates a principal campaign committee. Section 17-5-8(c), Code of Alabama 1975

The filing requirements are as follows:

- Within five (5) days after a candidate meets the \$1,000 threshold amount, they must electronically file, with the Secretary of State, an **Appointment of Principal Campaign Committee** statement. The statement must show the names of from two to five persons the candidate has chosen to serve as their principal campaign committee, or the candidate may declare themselves as the person to serve as the principal campaign committee. Section 17-5-4(a), Code of Alabama 1975.
- Along with this list, each candidate must file a written statement showing the acceptance or consent of the committee members of their appointment. Section 17-5-4(a), Code of Alabama 1975

**Monthly Reports** - For any year in which an election is held, the FCPA requires the treasurer of a committee to electronically file with the Secretary of State reports of contributions and expenditures once a campaign has received contributions or made expenditures of \$1,000 or more.<sup>3</sup> Once this occurs, the treasurer of the committee must electronically file a monthly report with the Secretary of State. Monthly reports are due on the second business day of the subsequent month during the 12 months leading up to the election with the exception of the month preceding the election. Section 17-5-8(b)(1), Code of Alabama 1975.

**Weekly Reports** - For the four (4) weeks prior to an election, weekly reports covering each week must be electronically filed on Monday of the following week. Section 17-5-8(b)(2), Code of Alabama 1975. A candidate who is required to file a weekly report during this period is ***not*** also required to file a monthly report in the month in which the election is held. This eliminates duplicative filings. Section 17-5-8(i), Code of Alabama 1975.

**Annual Reports** - A candidate who is required to file a monthly report during a certain period is ***not*** also required to file an annual report in the year in which the election is held. This eliminates a duplicative filing where an annual report is filed within days of a monthly report. See Section 17-5-8(i), Code of Alabama 1975. No annual report is required for a person who is appointed to fill a vacant term. Further, annual reports are not required to be filed by public officials who have dissolved their campaign committees. See Section 17-5-8(c), Code of Alabama 1975.

**Major Contribution Report** - Principal campaign committees must electronically file a report disclosing the receipt of any single contribution of \$20,000 or more within two (2) business days of receiving the contribution if the contribution has not already been reported in a finance disclosure report. Section 17-5-8.1(c), Code of Alabama 1975.

### Candidate's Campaign Committee

Every committee must have a chairman and a treasurer. Section 17-5-4(a), Code of Alabama 1975. The committee has exclusive custody of all funds contributed, donated, subscribed or in any manner furnished to or for the candidate represented by the committee. No candidate may spend any personal funds to help their election except by contributing those personal funds to the campaign committee they have designated. Section 17-5-4 (d), Code of Alabama 1975.

Candidates serving as their own campaign committee must perform the duties of the chairman and treasurer which are set out in the Act. A candidate who serves as his or her own principal campaign committee must now designate a person responsible for dissolving the principal campaign committee in the event of the candidate's death or incapacity. If the designated person is incapable of serving at the time of such event, the campaign account shall be dissolved by the candidate's personal representative. All funds in the account must be disposed in accordance with the FCPA. See Section 17-5-4(c), Code of Alabama 1975.

If any vacancies occur on the committee, the candidate is to fill the vacancy or the remaining members may discharge and complete the duties required as if the vacancy had not occurred. Section 17-5-4(b), Code of Alabama 1975.

The committee must maintain a checking account, money market account, or other similar banking account for all contributions it receives. All committee funds must be segregated from, and not commingled with, personal funds of officers,

<sup>3</sup> See appendix for letter dated September 18, 1989 from the Department of Justice discussing the filing requirements under the FCPA once the \$1000 threshold is met.

members or associates of the committee. The committee may not spend any money except by check, drawn on the account, electronic transfer from the account, a credit card, the balance of which is paid from the account, or out of a petty cash fund from which it may make expenditures in connection with a single purchase or transaction of \$100 or less. Section 17-5-6, Code of Alabama 1975.

It is the duty of the committee treasurer to keep a detailed, exact account of all contributions and expenditures. The committee must report the identity of each person who has made a contribution in an aggregate amount greater than \$100, along with the date and amount of the contribution. Section 17-5-8(d)(2), Code of Alabama 1975. The committee must also report the identity of every person to whom an expenditure in an aggregate amount greater than \$100 is made, along with the date and amount of the expenditure and the name of each candidate on whose behalf the expenditure was made. Section 17-5-8(d)(7), Code of Alabama 1975.

In addition, the treasurer must obtain and keep a receipted bill or cancelled check, stating the particulars for every expenditure made by or on behalf of the committee greater than \$100, and of expenditures of a lesser amount, if the aggregate amount paid to the same person during the calendar year is greater than \$100. The treasurer must preserve all receipted bills and accounts for a period of two years from the date of the expenditure. Items costing more than \$100.00 charged to a credit card must be itemized individually. AGO 1995-00132.

### Receipts of Contribution and Dates of Expenditures

Under general law, there is no limitation on the amount an individual, business or nonprofit corporation may contribute to the campaign of a person running for municipal office. Some municipalities may have special laws on this.

The date of receipt of a contribution is the first date that the recipient of the contribution is able to make use of the contribution. For contributions made by check, the date of receipt is the earlier of (1) the date the check was deposited into the recipient's account or (2) ten (10) days from the date that the funds came into the recipient's control. Section 17-5-2(a)(3)(c), Code of Alabama 1975. An expenditure is considered to be made on the date that the instrument authorizes the expenditure. For expenditures made by check, the date of expenditure is the date on the check. For expenditures made by electronic payment, the date of expenditure is the date of the electronic payment. Section 17-5-2(a)(7)(c), Code of Alabama 1975.

If a candidate pays for campaign expenses using that candidate's personal funds, the candidate's principal campaign committee may reimburse the candidate, but the committee and the candidate must itemize the receipts for each of the expenditures made by that candidate to accurately reflect to whom the expenditures were made. This opinion applies prospectively only. AGO 2007-006.

Essentially, any gift, donation, advance or deposit of money or anything of value, or a contract to do any of these things, constitutes a contribution. A contribution would also include the payment of compensation by any person for the personal services or expenses incurred on behalf of a candidate or political committee without payment of full and adequate compensation by the candidate. Section 17-5-2(a)(3)(a)(4), Code of Alabama 1975. Contributions can be returned or refunded so long as the refunds are itemized and reported. Section 17-5-7.1, Code of Alabama 1975.

Section 17-5-7, Code of Alabama 1975, states that candidates may not accept, solicit or receive contributions more than 12 months before an election in which they intend to be a candidate. The candidate may also solicit contributions for a period of 120 days after the election in which the person was a candidate, but only to the extent of any campaign debt of the candidate or the principal campaign committee of the candidate as indicated on the campaign financial disclosure form or to the extent of reaching the threshold that is required for qualification as a candidate for the office which they currently hold. The section prohibits the accepting, soliciting or receiving of campaign contributions as a bribe or for the intention of corruptly influencing the official actions of the public official or candidate for public office. The section further outlines how campaign contributions may be used. Section 36-25-6, Code of Alabama 1975, provides that candidates may not convert campaign funds to personal use.

Certain actions are specifically exempted from the definitions of contributions and expenditures. These are listed in full in Section 17-5-2 of the Fair Campaign Practices Act.

### Qualifying Fees and Legal Fees

Expenditures are defined as any purchase or transfer of anything of value, made to influence the result of the election, or any contract for this purpose. The payment of a qualifying fee is deemed to be an expenditure. Section 17-5-2(a)(7)(a)(4), Code of Alabama 1975. Legal fees and costs associated with any civil action, criminal prosecution or investigation resulting from conduct reasonably related to performing the duties of the office is now an explicit purpose for which campaign funds may be expended. Section 17-5-7(a)(7), Code of Alabama 1975.

### Disposal of Campaign Property

Property purchased by or contributed to a campaign committee with a value exceeding more than \$500 must be liquidated at fair market value or donated as permitted by the FCPA within 120 days following the election. Any funds generated by the liquidation of the property must be deposited in the candidate's campaign committee account. If elected, the candidate may use the property purchased by or contributed to the campaign committee if it is in the performance of the candidate's duties in their office. Section 17-5-7.2, Code of Alabama 1975.

### Where and When to File FCPA Forms

Candidates for municipal office should electronically file financial disclosure forms with the Secretary of State. Section 17-5-9(c), Code of Alabama 1975. Forms are accessible online on the Secretary of State's website at <https://www.sos.alabama.gov/alabama-votes/media/campaign-finance-reports>



The filing date is considered to be the date the report was electronically filed to the Secretary of State.

It is the duty of the Secretary of State to furnish all forms necessary for compliance with the Act. Section 17-5-11 Code of Alabama 1975. The Secretary of State must accept and file all reports required to be filed along with any extra information that is voluntarily supplied, and make each statement available for public inspection and copying. No information copied from the reports can be used by any political party or committee to solicit funds or for commercial purposes without the express written permission of the candidate or committee furnishing the information.

### FCPA Enforcement

The FCPA includes an administrative enforcement scheme for fines with minor violations and criminal penalties for intentional violations. Commencing with the 2024 election cycle, the Alabama Secretary of State has the authority to levy administrative penalties for *untimely* filing of FCPA reports, and the Ethics Commission has the authority to levy administrative penalties for the *inaccurate* filing of FCPA reports. Section 17-5-19.1, Code of Alabama 1975.

The administrative fine schedule is below:

- 1<sup>st</sup> offense: Lesser of \$300 or 10% of amount not reported
- 2<sup>nd</sup> offense: Lesser of \$600 or 15% of amount not reported
- 3<sup>rd</sup> offense: Lesser of \$1,200 or 20% of amount not reported
- 4<sup>th</sup> offense establishes a rebuttable presumption of intent necessary for criminal violation. The Secretary of State will notify the Attorney General and the appropriate district attorney for those who violate the filing requirements four or more times in an election cycle. See Sections 17-5-19.1 (b-c), Code of Alabama 1975.

Fines for municipal candidates are collected by the Secretary of State and paid to the State General Fund. Section 17-5-19.1(f), Code of Alabama 1975. A candidate is permitted to correct an otherwise timely filed report without incurring a penalty so long as it is initiated by the candidate (as opposed to being prompted by the Secretary of State) and corrected prior to the election. Section 17-5-19.1(g), Code of Alabama 1975. Criminal penalties include a Class A misdemeanor and a Class B felony. Section 17-5-19, Code of Alabama 1975.

The Secretary of State is not authorized to assess any civil penalties under the FCPA and the civil penalties should be assessed

by a court of competent jurisdiction after a successful prosecution. AGO 2014-021. The authority to prosecute violations of the FCPA is vested with the Attorney General or the District Attorney for the appropriate jurisdiction. Section 17-5-19(d), Code of Alabama 1975.

All political advertisements or electioneering communications must be clearly marked with a statement identifying the entity who paid for or authorized the advertisement. Section 17-5-12, Code of Alabama 1975. It is unlawful for any person or committee to distribute, broadcast or publish any campaign literature, political advertisement, or electioneering communications, including cards, pamphlets, circulars, posters or other printed material related to or concerning the election, without this notice. Section 17-5-13, Code of Alabama 1975. In *McIntyre v. Ohio Elections Comm.*, 514 U.S. 334 (1995), the U. S. Supreme Court held that a similar provision in Ohio law violated the First Amendment to the U.S. Constitution. The Alabama Attorney General has ruled that the Court decision only applies to individuals in non-candidate elections. Persons placing an ad for the purpose of electing an individual to office in Alabama must continue to comply with this provision of the Fair Campaign Practices Act. AGO 1995-00218.

It is illegal for any person to obstruct, intimidate, threaten or coerce any other person in order to interfere with that person's right to vote, or to cause that person to vote for, or not vote for, any candidate or other proposition. Section 17-17-33, Code of Alabama 1975.

It is illegal to pay, offer to pay, or accept payment, either to vote or withhold a vote, or to vote for or against a candidate or proposition. Section 17-17-34, Code of Alabama 1975.

No one shall make a contribution in the name of another person, or knowingly permit their name to be used to effect a contribution made by one person in the name of another person, or to knowingly accept a contribution made in the name of another person. Section 17-5-15, Code of Alabama 1975.

A municipal candidate's principal campaign committee is limited to contributing to or receiving an amount over \$1,000 from a principal campaign committee of a federal candidate. It is a Class C felony to violate this rule. Section 17-5-15.1, Code of Alabama 1975.

It is illegal for any person to misrepresent themselves, or any other person or organization with which they are affiliated, as acting for or on behalf of any candidate, committee or political party, or agent or employee thereof, in a manner which is damaging or is intended to be damaging to such other candidate, committee or political party. Section 17-5-16, Code of Alabama 1975.

It is illegal for any person or committee, or any agent of a person or committee, to solicit or secure anything of value by physical force, job discrimination or financial reprisals, or by threats or by the imposition of dues, fees or other money required as a condition of employment. Section 17-5-17, Code of Alabama 1975.

A person who violates any provision of this Act, other than a reporting requirement, is guilty of a Class A misdemeanor. 17-5-19(a), Code of Alabama 1975.<sup>4</sup>

A person who intentionally violates any reporting requirement of Section 17-5-4, 17-5-5, or 17-5-8 shall be guilty, upon conviction, of a Class A misdemeanor. Section 17-5-19(b), Code of Alabama 1975.

Any person who intentionally violates Section 17-5-7 shall be guilty, upon conviction, of a Class B felony. Section 17-5-19(c), Code of Alabama 1975.

Under circumstances that would allow public money to be spent for this purpose, the Fair Campaign Practices Act would allow an individual to use excess campaign funds to pay the legal expenses of a criminal prosecution related to the performance of official duties. AGO 2000-165.

## Election Offenses

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Chapter 17 of Title 17, Code of Alabama 1975, lists various election offenses which also apply to municipal elections. Other offenses are found in the general municipal election laws found in Title 11, Chapter 46, Code of Alabama 1975.

## Political Activity of Government Employees

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Section 17-1-4, Code of Alabama 1975, provides that no city employee, whether classified or unclassified, shall be denied the right to participate in county and state political activities to the same extent as any other citizen of the state, including the endorsing of candidates and contributing to campaigns of their choosing. The statute gives county employees the right to participate in city and state elections and gives state employees the right to participate in county and city elections.

Section 17-1-4, Code of Alabama 1975, allows municipal employees the right to participate in municipal elections. To be a candidate, the employee must take an unpaid leave of absence or use personal leave or compensatory time from the date they qualify to run for office until the date on which the election results are certified, the employee is no longer a candidate, or there are no other candidates on the ballot. Employees who violate this provision must be dismissed. Employees may not use public funds or property for political activity. AGO 1993-00108. Supervisors may not coerce employees to campaign. Employees who campaign must do so on their own time.

Unpaid reserve officers do not have to take a leave of absence to run for municipal office unless the council establishes a policy requiring this. AGO 1997-00034. A personnel policy that allows employees during an unpaid leave to continue their health insurance coverage, provided they pay the premiums, would permit an employee taking time off to run for office to do the same. AGO 1998-00090.

A local act that prohibits employees of a county commission from participating in political activities at the city, county and state levels is in conflict with Section 17-1-4 Code of Alabama 1975, which sets forth the right of city, county and state employees to participate in political activities. AGO 2000-153.

The federal Hatch Act covers federal employees and officers and employees of a state or local agency if their principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States government or a federal agency. Generally, this law does not restrict activity in nonpartisan elections. Municipal elections are nonpartisan. The Hatch Act is enforced by the United States Office of Special Counsel. Additional information may be obtained from that office.

## Advertising on Public Buildings

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Political materials may not be displayed on buildings that are owned, rented or leased by the state. Sections 36-12-60 through 36-12-64, Code of Alabama 1975. Also see AGO to the Hon. Gene Stedham, October 5, 1976. Voters, or those inside a polling place to assist voters, may wear campaign items. AGO 1993-00118.

It further appears that municipalities may adopt ordinances to control the placing of political advertising on municipal property.

Common or public areas of public buildings and grounds can be used for holding press conferences or videotaping political advertising, provided that access to these areas is available to all candidates on an equal basis, subject to reasonable restrictions. Any areas in public buildings that are not open for equal access to all candidates, such as individual offices, should not be used by any candidate, including public officials and employees. AGO 1998-00211.

### Election Supplies

The mayor shall, at municipal expense, procure, superintend, and ensure the delivery of the necessary election supplies to the election officers at each polling place. Section 11-46-32, Code of Alabama 1975.<sup>4</sup>

The municipality must also provide a sufficient number of voting stations so that each voter may vote in privacy without undue delay. The number of voters permitted in the voting area may not exceed the number of private voting stations available, unless a voter chooses to vote without using a private voting station.

### List of Voters – On or before July 15, 2025

Section 11-46-36(a), Code of Alabama 1975, provides that the mayor must file with the clerk the list of electors qualified to vote in the general municipal election. The list of electors must be filed on or before the third Tuesday in July preceding the general municipal election.

Section 11-46-37, Code of Alabama 1975, provides that if the mayor is a candidate for re-election, the mayor is disqualified from performing this duty. The council is required to appoint some disinterested person to perform this duty. There is no legal prohibition against the council appointing the clerk to prepare such lists if the council is satisfied of the clerk's disinterest.

Section 11-46-36, Code of Alabama 1975, contemplated that all qualified electors eligible to vote in the August elections would be known by the third Tuesday in July. However, in view of the 30-day residency requirement, some qualified electors may move into the municipality after this date and still be qualified to vote in the municipal election. These electors should be added to a supplemental list filed by the mayor, if they appear on the Secretary of State's voter list. See *Fluker v. Wolff*, 46 So.3d 942 (Ala. 2010). The clerk shall also publish the list of qualified voters 5 days prior to the election by posting copies in at least 3 public places in the municipality. Section 11-46-36(a), Code of Alabama 1975.

In preparing the list of persons qualified to vote regular ballots, if the municipality is divided into wards, separate lists for each ward must be prepared. The voters in each ward are listed alphabetically. If the election is held at-large, the list is alphabetical for the whole municipality, and it is divided alphabetically for the assignment of voters to the respective polling places. Section 11-46-36(a), Code of Alabama 1975.

#### 4 When paper ballots are used:

- At least 100 ballots for each 50 registered electors at each voting place;
- The same number of black seals, two inches square, around the outer edge of which is a mucilaginous surface one-fourth inch wide, designed so that a seal may be placed securely over the square bearing the ballot number in such manner that it will make it impossible to read such number without removing the seal, yet such seal may be removed without obliterating the number;
- Ballot boxes;
- Blank poll lists;
- For each ward or voting district, three or more cards of instructions to voters, which shall be printed in large clear type and shall contain full instructions to electors as to what should be done--first, to obtain ballots for voting; second, to prepare the ballot for deposit in the ballot box; third, to obtain a new ballot in place of one accidentally spoiled; and fourth, to obtain a watcher for each candidate to be voted for;
- Certificates of results;
- Oaths and any other stationery, blank forms or supplies necessary for the conduct of the election. Section 11-46-32, Code of Alabama 1975.

When electronic vote counting systems are used:

The municipality must provide sufficient counters, or ballot boxes where central counters are used, to ensure that all voters may vote without undue delay. There must be at least one precinct counter, or ballot box, for each 2,400 expected voters or fraction thereof. The number of expected voters is determined by the largest number of votes cast in that precinct during the last municipal general election. If the manufacturer's recommended maximum number of ballots is less than 2,400, then the recommended numbers shall be used.

For **victims of domestic violence**, Section 17-4-33(b)(1), Code of Alabama 1975, requires the municipal clerk to include the name but **omit all other information** of a registered voter on any generally available list of registered voters, except for those lists provided to state agencies, who submits a written and signed affidavit to the board of registrars of the county in which the individual is registered or intends to register. **This requirement also applies to a registered voter who is a federal or state prosecutor, a federal, state, probate or municipal judge, a legislator, a law enforcement officers as defined in Chapter 21 of Title 36 or the spouse of anyone holding any of these positions.**

The registered voter must affirm one of the following:

1. That the registered voter, or a minor who is in the legal custody of the registered voter is or has been the victim of domestic violence as provided in Article 7 commencing with Section 13A-6-130. Section 17-4-33(b)(1)(a), Code of Alabama 1975.
2. That a domestic violence order is or has been issued by a judge or magistrate pursuant to the Domestic Violence Protection Order Enforcement Act, to restrain access to the registered voter or a minor who is in the legal custody of the registered voter. Section 17-4-33(b)(1)(b), Code of Alabama 1975.
3. That the registered voter is a federal or state prosecutor, federal, state, probate, or municipal judge, legislator, or law enforcement officer as defined in Chapter 21 of Title 36 or the spouse of a federal or state prosecutor, federal, state, probate, or municipal judge, legislator, or law enforcement officer as defined in Chapter 21 of Title 36. Section 17-4-33(b)(1)(c), Code of Alabama 1975.

The clerk is required to publish the list of electors qualified to vote regular ballots in the election at least five (5) days before the election. Again, there is no requirement that the list be published in each district if the municipality is divided into districts. Section 11-46-36(a), Code of Alabama 1975.

The list is published by posting it in three public places in the municipality. Section 11-46-36, Code of Alabama 1975. The list does not need to be published in a newspaper.

Following each election, the municipal clerk shall make a copy of that portion of the list to be made a public record and shall maintain the original in his or her office. The clerk shall redact any information required to be redacted pursuant to Section 17-4-33 from the copy to be made a public record. Section 11-46-36, Code of Alabama 1975.

### Guide for Preparing the Voter List

The voter list should contain the names of all registered and qualified voters of the State of Alabama who reside within the corporate limits of the municipality and are registered to vote regular ballots. Section 11-46-36, Code of Alabama 1975.

Section 11-46-22(b), Code of Alabama 1975 places a residential requirement for thirty (30) or more days immediately preceding the date of the election.

The person designated to prepare the voter list should obtain from the county the voting lists for all county voting precincts which cover a portion of the municipality. The person preparing the voter list for the municipality must strike the names of all persons on this list who do not live within the corporate limits of the municipality in order to obtain an accurate municipal voter list.

Questions often arise as to how a person who resides in the municipality but is registered in another county should be treated. The Alabama Supreme Court in *Hass v. McCrary*, 399 So.2d 298 (Ala. 1981), held that, in order for a voter who is registered to vote in one county to be eligible to vote in a municipal election held in another county to which the voter has moved and established a new residence, the voter must re-register in the county of his or her new residence.

Regulation 820-2-3-.03<sup>5</sup> requires printing the correct ballot style designations for each voter on the list of qualified voters. The ballot style designation is the designation assigned to each race (set of candidates) in the municipal election, and corresponds to the designation assigned for absentee purposes. See the information on absentee voting in this manual for more information.

Another frequently-asked question concerns a person who is on the voter list but has moved out of the corporate limits. In *Jacobs v. Ryals*, 401 So.2d 776 (Ala. 1981), the Alabama Supreme Court held that a change of domicile cannot be inferred from an absence, temporary in character, and attended with the requisite intention to return. The intent to return is usually the controlling point in determining such questions.

In *Osborn v. O'Barr*, 401 So.2d 773 (Ala. 1981), the Alabama Supreme Court held that, in order to acquire a domicile of choice, there must be both an abandonment of the former domicile with no present intention of return and the establishment of another place of residence with the intention to remain permanently or at least for an unlimited time. See, also, *Harris v. McKenzie*, 703 So.2d 309 (Ala. 1997).

### Absentee Election Supplies - On or before July 29, 2025

The mayor must provide and deliver the municipal clerk a sufficient number of absentee ballots, envelopes and other necessary election supplies. Section 11-46-32, Code of Alabama 1975. In 2015, Section 11-46-32, Code of Alabama 1975 was amended so that its delivery date of absentee supplies no longer conflicts with section 17-11-12, Code of Alabama 1975, which requires the mayor to provide absentee election supplies no less than twenty eight (28) days prior to the general election in a municipal election, or in the case of a runoff municipal election, not more than 10 days after the first election.<sup>6</sup>

### Absentee Elections Manager

Section 11-46-57, Code of Alabama 1975, provides that the town clerk, city clerk or other officer performing the duties of the clerk, as the case may be, shall perform the duties of absentee elections manager as provided in Chapter 11 of Title 17, Code of Alabama 1975. For performing these duties, the municipal governing body may compensate the clerk, or other officer performing the duties of the clerk, in whatever manner and amount it deems appropriate.

In all municipal elections held at a time different from a primary or general election, the duties with reference to the handling of absentee ballots shall be performed by the municipal clerk. If the clerk is a candidate in the upcoming election, the municipal governing body shall appoint a qualified elector of the municipality to handle the duties of the clerk with regard to absentee ballots. Section 17-11-15, Code of Alabama 1975.

### Reasons for Voting Absentee

Sections 17-11-1 through 17-11-19, 17-9-51, and 17-17-24 through 17-17-27, Code of Alabama 1975, govern absentee voting in all primary, general, special and municipal elections in the State of Alabama. These laws specifically supersede all other laws relating to absentee voting.

Section 17-11-3, Code of Alabama 1975, provides that any qualified elector of this state may apply for and vote an absentee ballot by mail, commercial carrier provided the clerk receives absentee applications by *mail* not less than seven (7) days prior to the election. Applications returned *by hand* must be received no less than five (5) days prior to the election. Section 17-11-3(b), Code of Alabama 1975.

In addition to the requirements above, the applicant must also meet one of the following requirements:

1. The person will be out of the municipality on election day.
2. The person has any physical illness or infirmity which prevents their attendance at the polls, whether they are within or without the county on the day of the election.

<sup>5</sup> References in this format to “Regulations” refer to the Alabama Administrative Code. An on-line copy of this Code may be accessed at the League’s web site at [www.almonline.org](http://www.almonline.org).

<sup>6</sup> Act No. 2015-216

3. The person expects to work on a shift which has at least 10 hours which coincide with the hours the polls are open at their regular polling place.
4. The person is enrolled as a student at an educational institution located outside the county of their personal residence attendance at which prevents his or her attendance at the polls.
5. The person is a member of, or spouse or dependent of a member of, the armed forces of the United States or is similarly qualified to vote absentee pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act 52 U.S.C. 20301-20311.
6. The person has been appointed as an election officer or named as a poll watcher at a polling place other than their regular polling place.
7. The person is a caregiver for a family member to the second degree of kinship by affinity or consanguinity and the family member is confined to their home.
8. The person is incarcerated in prison or jail and has not been convicted of a felony involving moral turpitude, as provided in Section 17-3-30.1. Section 17-11-3(a), Code of Alabama 1975.

### Emergency Absentee Ballots

A registered voter who requires emergency treatment of a licensed physician within 5 days of the election may apply for an emergency absentee ballot. The person must return the absentee ballot no later than noon on the day the election is held. The attendant physician must describe and certify the circumstances constituting the emergency on a special form designated by the Secretary of State and provided to local absentee election managers. The special form must be attached to the application. Section 17-11-13(d), Code of Alabama 1975.

In addition to a medical emergency requiring treatment within five (5) days of the election, the following additional situations make a voter eligible for emergency absentee voting:

1. The voter is required by their employer under unforeseen circumstances within five days before an election to be unavailable to vote at the polls on election day;
2. The voter is a caregiver of a person who requires emergency treatment by a licensed physician within five days of the election; or
3. A family member to the second degree of kinship (i.e., parent, child, sibling, grandparent, or grandchild) by affinity or consanguinity of the voter dies within five days of the election. Section 17-11-3(e)(1)(c), Code of Alabama 1975.

### Absentee Voter Identification

A voter is required to submit their identification along with their absentee ballot application before ever being sent an absentee ballot. The law specifically states that “an absentee ballot shall not be issued unless the required identification is submitted with the absentee ballot application.”<sup>7</sup> Section 17-9-30(b), Code of Alabama 1975. If an application is received on or after the eighth day before the election and it is missing the proper identification, the absentee election manager shall issue the absentee ballot as a provisional ballot. Section 17-9-30(c), Code of Alabama 1975.

In issuing a provisional absentee ballot, the absentee election manager must notify the voter why the ballot is provisional and provide a voter re-identification form, an affirmation of provisional voter form and instructions on the procedure followed by the Board or Registrars for verifying and certifying provisional votes. Additionally, the voter must be instructed that they must provide identification to the Board of Registrars no later than 5:00 p.m. on the Friday following the Election. Section 17-10-2(a)(1), Code of Alabama 1975.

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<sup>7</sup> A voter claiming a physical illness or infirmity and they are either an elderly voter aged 65 or older or is a voter with a disability is not required to produce identification prior to voting an absentee ballot. See Section 17-9-30(c), Code of Alabama 1975.

### List of Absentee Voters - No Posting

Alabama law requires confidentiality of absentee voters until after the election. Specifically, the list of electors voting by absentee ballot shall remain confidential until the day following the election. The absentee elections manager will now deliver the list to the board of registrars the day following the election, and at that point the list becomes a public record. Section 17-11-5(c)(1), Code of Alabama 1975.

### Disabled Voters

The Secretary of State, through the rulemaking process, is authorized to establish procedures that would allow for a voter to be placed on a permanent absentee voter list upon proof of having a permanent disability preventing the voter from attending the polls in person and thus allowing the disabled voter to vote by absentee on an on-going basis. Section 17-11-3.1, Code of Alabama 1975.

The application must be signed and notarized by the disabled voter's primary physician. Section 17-11-3.1(b)(1), Code of Alabama 1975. There must be a procedure to provide for automatically mailing absentee ballots before each election to voters who are placed on the disabled absentee voter list. Section 17-11-3.1(b)(4), Code of Alabama 1975.

### Single Absentee Application for General and Runoff Elections

Individuals can apply for absentee ballots for a municipal general election and a municipal runoff election with a single application as long as the runoff election is no more than 42 days after the general election. Section 17-11-5(c)(1), Code of Alabama 1975.

Separate applications for absentee ballots are required for elections which are more than 42 days apart except as to individuals voting pursuant to the federal Uniformed and Overseas Absentee Voting Act (under UOAVA), 42 U.S.C. 1973ff.<sup>8</sup> Section 17-11-5(c)(1) Code of Alabama 1975. The absentee election manager may not accept multiple applications which are mailed in one envelope. AGO 1982-551 (to the Hon. Don Siegelman, September 10, 1982).

### State of Emergency – Absentee Voting

If a state of emergency as declared in this or any other state, or by the federal government, renders substantial compliance with absentee voting rules impossible or unreasonable for a group of qualified voters who respond to the emergency, the Secretary of State may, at the time, promulgate an emergency rule to allow those qualified voters to vote by absentee ballot. Section 17-11-3(f), Code of Alabama 1975.

### Absentee Applications

A person who desires to vote absentee may vote absentee provided the municipal clerk receives the absentee application by *mail* no less than seven (7) days prior to the election. Applications returned by hand must be received not less than five (5) days prior to the election. Section 17-11-3(b), Code of Alabama 1975.

The application shall be in a form prescribed by the Secretary of State and shall be used throughout the state. Section 17-11-4(a), Code of Alabama 1975. Notwithstanding the foregoing, handwritten applications can also be accepted at any time prior to the seven-day deadline if by mail, or the five-day deadline if returned by hand. The application shall contain sufficient information to identify the applicant. The application must contain the following: the applicant's name, residence address, or such other information necessary to verify that such applicant is a registered voter, reason for voting absentee and the voter's signature.

<sup>8</sup> In the opinion of the Attorney General, the requirements of UOAVA do not apply to municipal elections. AGO 2008-107. Further, we are of the opinion that Act 2011-619, which relates to electronic voting for overseas military, does not apply to municipal elections for the same reasons given in AGO 2008-107.

Application forms shall have printed all penalties for violation of the absentee ballot laws. Section 17-11-4, Code of Alabama 1975.

A federal Postcard Application for Registration and Absentee Ballot may be treated as both an application for registration to vote and as an application for an absentee ballot. AGO 1983-064 (to the Hon. John L. Moore, November 3, 1982).

Any applicant may have assistance in filling out the application, but each application shall be manually signed by the applicant under the penalty of perjury. It shall be unlawful for any person to knowingly distribute an absentee ballot application to a voter which is prefilled with the voter's name or any other information required on the application form. If the applicant signs by mark, the name of the witness and their signature must be signed. Section 17-11-4, Code of Alabama 1975. The application may be sent to the clerk by U. S. mail, commercial carrier, or delivered personally. Section 17-11-3, Code of Alabama 1975. Except in situations governed by Section 17-11-3(f), it shall be unlawful for an individual to submit a completed absentee ballot application to the absentee ballot manager other than their own application. Section 17-11-5(a), Code of Alabama 1975. An application for a voter who requires emergency treatment by a licensed physician within five days before an election pursuant to Section 17-11-3 may be submitted to the absentee ballot manager by an individual designated by the applicant. Section 17-11-5(a), Code of Alabama 1975.

Upon receipt of the application for an absentee ballot, if the applicant's name appears on the list of qualified voters in the election to be held or, if the voter makes an affidavit for a provisional ballot, the absentee election manager shall furnish the absentee ballot to the applicant by forwarding it by U.S. mail to the applicant's or voter's residence address or upon written request of the voter the address where the voter regularly receives mail or by handing the absentee ballot to the voter in person or in the case of emergency voting, their designee in person. Section 17-11-5, Code of Alabama 1975.

If the absentee election manager verifies that an applicant for an absentee ballot in a run-off is a duly registered voter entitled to vote by absentee ballot based upon the information provided in the application, an absentee ballot for the run-off election must be mailed to that applicant. AGO 2000-166.

Persons detained in a detention facility in Alabama who are qualified to vote may apply for and cast an absentee ballot pursuant to the provision that allows a person who has a physical illness or infirmity that prevents their attendance at the polls on election day to vote absentee. AGO 2001-052.

An applicant who is a member of the United States Armed Forces, including members of the Alabama National Guard and Reserves, or an applicant who is the spouse of any member of the armed forces may make application for an absentee ballot by filling out the federal postcard application form authorized by the Federal Voting Assistance Act of 1955. Section 17-11-3, Code of Alabama 1975.

National Guardsmen on summer camp may vote absentee. AGO to the Hon. Frances Weathers, July 28, 1972.

### **Fraudulent Activity in Absentee Application Process**

If the absentee election manager has reasonable cause to believe that the applicant has given a fraudulent address on the application for the absentee ballot, the election manager shall turn over the ballot application to the district attorney for any action which may be necessary. The absentee election manager further may require additional proof of an applicant's eligibility to vote absentee when there is evidence of continuous absentee voting. Section 17-11-5, Code of Alabama 1975.

### **Absentee Ballots**

The official ballots for absentee voters shall be in the same form as the official regular ballot, except the words "Official Absentee Ballot" shall be printed on them. Section 17-11-6, Code of Alabama 1975.

Not less than 28 days prior to the general municipal election, or in the case of a runoff municipal election, not more than 10 days after the first election, or in the case of a municipal election held for a purpose other than the election of municipal officers, not more than seven (7) days after the giving of notice of the election, the officer charged with the printing and distribution of the official ballots and election supplies shall deliver to the absentee election manager a sufficient number of absentee ballots, envelopes and other necessary election supplies. If the absentee election manager is a candidate with

opposition in the election, he or she shall immediately, upon receipt of such ballots, envelopes and supplies, deliver the same to the person authorized to act in his or her place. Section 17-11-12, Code of Alabama 1975.

Each absentee voter shall be furnished with an absentee ballot together with two envelopes for returning the marked ballot. The voter shall also receive instructions for correcting mistakes in completing ballots or obtaining a replacement ballot. One envelope shall be a plain envelope in which the ballot shall be sealed by the voter after they have marked it. The second envelope shall have a voter's affidavit printed on the back substantially in the same form as provided by Section 17-11-7, Code of Alabama 1975. The second envelope shall be large enough to seal the plain envelope containing the ballot inside. Such return mail envelope shall be addressed to the absentee election manager as prescribed in Section 17-11-9, Code of Alabama 1975.

An absentee voter can mark their ballot at any place they desire including the office of the municipal clerk or other persons designated as absentee ballot manager. AGO to the Hon. D. L. Cockrell, January 21, 1976.

After marking the ballot, the voter shall seal the ballot in the plain envelope provided, place the plain envelope inside the affidavit envelope, complete the affidavit, have their signature on the affidavit witnessed by either a notary public or other officer authorized to acknowledge oaths or by two witnesses 18 years of age or older<sup>9</sup>, and shall forward it by U. S. mail or commercial carrier to the clerk or shall hand it to the clerk in person. Section 17-11-9, Code of Alabama 1975. Absentee ballots that are not witnessed or notarized should not be opened or counted. AGO 2000-180.

The clerk should not accept a ballot unless it is mailed to them or hand delivered to them in person by the voter. AGO 1980-551 (to the Hon. James E. Floyd, September 12, 1980).

The Alabama Supreme court has held that absentee ballots retrieved from a United States Post Office without a postmark cannot be counted in mayoral election. *Washington v. Hill*, 960 So.2d 643 (Ala. 2006).

The absentee election manager shall determine whether an applicant for an absentee ballot must provide identification or re-identify. For absentee applicants required to produce identification<sup>10</sup>, a third envelope of different color and sufficient size to enclose the first and second envelopes shall be provided to the applicant along with instructions for including a proper form of identification.

For absentee applicants required to re-identify because they do not appear in the voting place for which they seek to vote but do appear in another voting place within the state voter registration list, the absentee election manager shall provide to the voter a third envelope of different color and sufficient size to enclose the first and second envelopes along with a voter re-identification form, a provisional voter affirmation, and instructions for casting a provisional ballot. Such ballot shall be treated as a provisional ballot and the term "Provisional" shall be marked on the second or affidavit envelope prior to transmitting the ballot to the voter. **Applicants for an absentee ballot who do not appear on the state voter registration list shall not be entitled to an absentee ballot. 17-11-9, Code of Alabama 1975.**

### **Absentee Ballots Mailed the Day After Application Received**

The absentee election manager shall mail any absentee ballot requested to be mailed no later than the next business day after an application has been received unless the absentee ballots have not been delivered to the absentee election manager. If the absentee ballots have not been delivered, the absentee election manager shall hold all requests until the ballots are delivered and shall then respond by placing ballots in the mail no later than the next business day. Section 17-11-5(a), Code of Alabama 1975. Absentee ballots must be mailed to a voter's residence address as shown on the voters list or, if requested by the voter, to an address where the voter regularly receives mail. AGO 2000-156; AGO 2000-193.

### **Voter Claims Not to Have Received Ballot**

If a voter who requested an absentee ballot signs an affidavit stating that the voter did not receive the ballot, the absentee election manager may provide the voter with a replacement absentee ballot. AGO 2000-244. The affidavit and documentation

<sup>9</sup> Section 17-11-7(c), Code of Alabama 1975, as amended by Act 2019-507, provides that unless running unopposed, a candidate may not witness or notarize any absentee ballot.

<sup>10</sup> This language is used in the Code of Alabama, but all voters must produce identification.

by the absentee election manager should be attached to the voter's application for an absentee ballot. If one voter casts multiple ballots, none of those ballots should be opened or counted. Rule 307-X-1-.22(a)(a), Administrative Code of Alabama. In addition, a person who applied for an absentee ballot and claims that they did not receive the ballot or that it was lost and who is able to go the polling place on election day is entitled to vote by challenged ballot at the polling place. AGO 2000-244. NOTE: Although this Opinion concerned challenged balloting, because challenged balloting has been repealed, the voter should now be permitted to vote a provisional ballot. See Section 17-10-2(a)(5), Code of Alabama 1975

### List of Absentee Ballot Applicants to Poll Workers

The absentee election manager shall underscore on the list of qualified voters the name of the applicant and write immediately beside the applicant's name the word "absentee." See Section 17-11-5(b), Code of Alabama 1975. On the list of absentee voters, the manager shall also enroll the name, residence and polling place of the applicant and the date the application was received. Another copy of the list must be maintained in the clerk's office for 60 days after the election and then filed with the probate judge. Pursuant to Section 17-11-5, a person's name should be stricken from the list of qualified voters when that person applies for an absentee ballot in a municipal election. AGO 2000-231.<sup>11</sup>

The absentee election manager shall also, before the polls open at any election, cause to be delivered to the election officers of each polling place, a list showing the name and address of every person whose name appears on the list of qualified voters for such polling place who applied for an absentee ballot in the election. The name of an applicant for absentee ballot shall be identified on the list of qualified voters and that person shall not be allowed to vote again, except by provisional ballot. Section 17-11-5(c), Code of Alabama 1975. See also, §11-46-58, Code of Alabama 1975 (requiring that Chapter 11 of Title 17 be followed with respect to marking, enrolling, posting, and delivering lists showing names and addresses of applicants for absentee ballots.)

In *Townson v. Stonicher*, 933 So.2d 1062 (Ala. 2005), the Alabama Supreme Court held that the votes of absentee voters who failed to submit proper identification with their ballots could not be counted.

In *Washington v. Hill*, 960 So.2d 643 (Ala. 2006), the court held that identification requirements of the statute governing absentee ballots would not be set aside to remedy an elections manager's failure to notify voters of their errors in time for remediation.

### Receipt of Absentee Ballots

Upon receipt of the absentee ballot, the absentee election manager shall record its receipt on the absentee list and shall safely keep the ballot without breaking the seal of the affidavit envelope. Section 17-11-10(a), Code of Alabama 1975. The city council does not have the authority to impose specific procedures for the safekeeping of the absentee ballots. AGO 2004-214.

Absentee ballots may be returned up to and including the day of the election. No absentee ballot shall be opened or counted if received by the absentee election manager by mail unless received by noon the day of the election. Absentee ballots may be returned by hand delivery if delivered to the absentee election manager no later than the close of business<sup>12</sup> on the day prior to the election. Ballots delivered by the medical emergency designee may be returned by noon on election day. Section 17-11-18(a), Code of Alabama 1975. Procedure proposed to count timely received absentee ballots that were discovered by election officials on a day after the other absentee ballots were counted is appropriate under state law. Section 11-17-18(b), Code of Alabama 1975. AGO 2003-028; AGO 2003-029.

### Absentee Ballots Delivered to Poll Workers on Election Day

The absentee election manager beginning at 7:00 am on the day of the election, shall deliver the sealed affidavit envelopes containing absentee ballots to the election officials. Section 17-11-10(b)(1), Code of Alabama 1975. Ballots can still be received until noon on election day.

<sup>11</sup> This Opinion uses the word "stricken;" however it does not use the word in a literal sense. The underlining and notation requirements of 17-11-5 serve to strike the voter's name from the list.

<sup>12</sup> Unless a municipality has set hours of operation, we recommend staying open until 5:00 p.m. as the law previously provided for.

In every city having, according to the last or any subsequent federal decennial census, 10,000 or more inhabitants, the municipal body may designate on the day of the election the place and hour for the inspector(s) and clerks to meet for the purpose of receiving, counting, and returning the ballots. Section 11-46-27(c), Code of Alabama, 1975.

In every city or town having less than 10,000 inhabitants, according to the most recent federal decennial census, the municipal governing body may adopt an ordinance at least six months prior to the date of the election a place and hour on the day of the election for the absentee election offices to meet for the purpose of receiving, counting, and returning the absentee ballots cast at the election. Section 11-46-27(d), Code of Alabama, 1975.

In the event the governing body has not designated an hour or place to meet then the absentee election manager beginning at 7:00 am on the day of the election, shall deliver the sealed affidavit envelopes containing absentee ballots to the election officials. Section 17-11-10(b)(1), Code of Alabama 1975.

The election officials shall call the name of each voter casting an absentee ballot, with poll watchers present as may be provided under the law of Alabama, and shall open each affidavit envelope, review the affidavit to determine if the signature of the voter has been appropriately witnessed. If the witnessing of the signature and the information in the affidavit establish that the voter is entitled to vote by absentee ballot, then the election officials shall certify the findings, open each affidavit envelope, and deposit the plain envelope containing the absentee ballot into a sealed ballot box. Section 17-11-10(b)(1), Code of Alabama 1975. The Supreme Court has indicated that an affidavit is in substantial compliance if it contains the voter's signature, two witnesses or a notary, the reasons for voting absentee, and the voter's residence. See, e.g., *Eubanks v. Hale*, 772 So.2d 1113 (Ala. 1999).

The absentee ballots shall, upon the closing of the polls, be counted and otherwise handled in all respects as if said absentee voter were present and voting in person. Section 17-11-10(b)(3), Code of Alabama 1975.

### **Unsigned Absentee Affidavits Not to Be Opened**

No poll worker or other election official shall open an affidavit envelope if the affidavit is unsigned by the voter (and unmarked), and no ballot envelope or ballot may be removed or counted. No poll worker or other election official shall open an affidavit envelope if the voter's affidavit signature (or mark) is not witnessed by the signatures of two witnesses or a notary public (or other officer authorized to acknowledge oaths) and no ballot envelope or ballot may be removed or counted. Section 17-11-10(b)(2), Code of Alabama 1975.

### **Additional Absentee Election Officials**

In municipalities with populations of 10,000 or more, the municipal governing body shall appoint from the qualified electors of the city one inspector and at least three clerks, who shall meet on the day of the election at such place and hour as the municipal governing body may designate for the purpose of receiving, counting, and returning the absentee ballots cast at the election. Four days before the election, the municipal governing body shall ascertain the number of absentee ballots which have been cast at the election and, if more than 600 absentee ballots have been cast, then such governing body shall appoint three more inspectors and two more clerks for each 600 absentee ballots or fraction thereof cast at such election. See Section 11-46-27(c), Code of Alabama 1975.

In municipalities with populations of less than 10,000, the governing body *may* appoint additional election officials for absentee ballots. If a municipality chooses to appoint extra officials for this purpose, it must adopt an ordinance at least 6 months prior to the election stating that at the time other election officials are appointed, additional officials will be appointed who shall meet on the day of the election at the place and hour designated by the governing body for the purpose of receiving, counting, and returning the absentee ballots cast at the election. Section 11-46-27(c), Code of Alabama 1975; Section 17-11-10(b)(4), Code of Alabama 1975. There must be at least three election officials appointed for this purpose. When other officials are appointed, one shall be designated as the inspector.

### **Absentee Returns**

The returns from the absentee box shall be made as required by law for all other boxes. Section 17-11-11(a), Code of Alabama 1975. These election officers must be appointed when the other election officers are appointed by the local governing body

pursuant to Section 11-46-27, Code of Alabama 1975. Any person authorized to appoint poll watchers under Section 17-8-7 and 17-13-11 may have a single watcher present at the counting of the absentee ballots. Section 17-11-11(b), Code of Alabama 1975. It is unlawful for any election official or other person to publish or make known to anyone the results of the count of absentee votes before the polls close. Section 17-11-11(a), Code of Alabama 1975.

The absentee ballots shall, upon the closing of the polls, be counted and otherwise handled in all respects as if said absentee voter were present and voting in person. Section 17-11-10(b)(3), Code of Alabama 1975.

In municipalities of less than 10,000 inhabitants, the return mail envelopes containing the ballots shall be delivered by the absentee election manager to the election official of the precinct of the respective voters where they shall be counted and otherwise handled as if the absentee voter were present and voting in person unless the city has adopted a procedure as provided above at least 6 months prior to the election. Section 17-11-10(b)(4), Code of Alabama 1975.

### **Fraudulent Activity Involving the Absentee Ballot**

Any person who willfully changes an absentee voter's ballot to the extent that it does not reflect the voter's true ballot, or any person who willfully votes more than once by absentee in the same election, or any person who willfully votes for another voter or falsifies absentee ballot applications or verification documents so as to vote absentee, or any person who solicits, encourages, urges, or otherwise promotes illegal absentee voting shall, upon conviction, be guilty of a Class C felony. Any person who willfully aids any person unlawfully to vote an absentee ballot, any person who knowingly and unlawfully votes an absentee ballot, and any voter who votes both an absentee and a regular ballot at any election shall be similarly punished. Section 17-17-24, Code of Alabama 1975.

Except for provisional absentee ballots that have not been verified by seven (7) days after the election, any election official who fails to count a legal vote cast by absentee ballot shall be guilty of a Class C felony and punished as provided by law. Section 17-17-27, Code of Alabama 1975.

### **Unused Absentee Supplies**

Each person, firm or entity supplying to any county or municipality any absentee affidavit envelopes, absentee ballots, or other absentee election materials in connection with the municipal election shall, at the time of the shipment or delivery of the same, provide to the municipality, and to the Secretary of State, an itemized and signed statement showing a description and the quantity of each item so shipped or delivered. Upon the conclusion of the election, the absentee election manager shall return all unused absentee election materials to the county sheriff <sup>13</sup>along with an itemized, signed statement showing the description and quantity of each item of absentee election material not utilized by the municipality in the election then concluded, and said unused absentee election materials shall be maintained for the period of time prescribed by applicable law and, in no event, less than eighteen (18) months. Section 17-11-19, Code of Alabama 1975.

Absentee votes cast for a deceased candidate should be counted in determining the total votes cast for the election and are not to be attributed to the replacement candidate. Voters who have cast an absentee ballot for a deceased, disqualified, or otherwise ineligible person are not authorized by Alabama Law to cast a new ballot. AGO 2003-022.

## **FOR A PRACTICAL GUIDE TO THE ABSENTEE PROCESS, PLEASE SEE APPENDIX**

### **Registration of Voters - on or before August 11, 2025**

The Board of Registrars may not register persons to vote within fourteen (14) calendar days prior to an election. Section 17-3-50, Code of Alabama 1975; Section 11-46-38, Code of Alabama 1975.

<sup>13</sup> Act 2019-507 amended Section 17-11-19, Code of Alabama 1975 to require unused absentee ballot materials to be sent to the appropriate sheriff instead of the Secretary of State.

Although municipal officials are not directly concerned with registration of voters (except where municipal clerks have been appointed deputy registrars), it is appropriate to call attention to several opinions of the Attorney General relating to voter registration.

Persons who are 18 years of age may vote and to affect this constitutional demand, persons who are 17 years of age at the time registration closes but who will become 18 years of age prior to the election must be permitted to register. AGO to the Hon. Thomas A. Jernigan, August 8, 1975.

Persons 18 to 21 years of age may establish voting residency in locales different from their parents or guardians. University students may establish voting residency in university communities. AGO to Mrs. Reed Proctor, March 10, 1972.

Crimes which disqualify an Alabama citizen from voting are listed in Section 17-3-30.1, Code of Alabama 1975.

A voter who has had their name removed from the voter list because of a felony conviction cannot be re-registered to vote unless their voting rights have been restored by the Board of Pardons and Paroles. AGO 1981-615 (to the Hon. Ruth Parker, September 30, 1981).

The board of registrars is required to remove the names of voters from the voter list who have moved to another county or state and to transfer the names of voters who have moved from one precinct to another. AGO 1981-457 (to Board of Registrars, June 30, 1981).

A qualified voter may not have their name transferred from one polling place to another within 10 days of an election. AGO 1980-539 (to the Hon. Pearl Green, September 2, 1980). Since the issuance of this opinion, the registration deadline was changed to 14 calendar days prior to an election. Section 17-3-50, Code of Alabama 1975.

Any person convicted of a felony, as well as any person convicted of illegal voting, buying or selling votes or bribery to secure the registration of any person, is disqualified from registering to vote and may be removed from the voter's list after the appeal is resolved against them. AGO 1992-00048.

In *Williams v. Lide*, 628 So.2d 531 (Ala. 1993), the Alabama Supreme Court held that convicted felons who were not notified that their names had been removed from the voter registration list, contrary to Alabama statute, were not on that basis qualified to vote in the county election.

If municipal officials have any doubts concerning the qualification of a voter, they should obtain a court order or opinion of the Attorney General before removing a person from the voters list.

A person whose name is not on the voters list at the polls may have their name added to the list and be allowed to vote if the person presents a certificate from the Board of Registrars that verifies their registration, or they may vote a challenged ballot. AGO 1998-00063. NOTE: Although this Opinion applies to challenged balloting, the League assumes that it will apply to provisional voting as well. See *Fluker v. Wolff*, 46 So.3d 942 (Ala. 2010).

### Voting Machines

**NOTE: In 2015, Section 11-46-33, Code of Alabama 1975 was amended to clarify that the use of these electronic devices is governed by rules adopted by the Alabama Electronic Voting Committee and state law and should not be confused with laws referring to voting machines.<sup>14</sup> While laws governing state and county elections referring to voting machines have been repealed, Alabama law governing municipal elections does, however, refer to voting machines. It is the League's understanding that voting machines are not currently used by any municipality in Alabama and therefore are not discussed in this manual. Instead, Alabama municipalities use either paper ballots or electronic devices.**

<sup>14</sup> See Act No. 2015-216; see also Ala. Admin. Code 307-X-1-.03.

### Disabled Voters

An election official shall allow any voter who is mobility disabled or over the age of seventy (70), who so requests, to move to the front of the line at the polling place. Section 17-9-13(c), Code of Alabama 1975.

The chief election official at each polling place shall post a public notice at each polling place explaining mobility disabled voters or voters over the age of 70 are allowed, upon their request, to move to the front of the line at the polling place. Section 17-9-13(d), Code of Alabama 1975.

A city may and should provide paper ballots as an alternate method of voting for the physically handicapped who are unable to use voting machines. AGO to the Hon. David Vann, December 17, 1975.

Additionally, Section 17-2-4(c)(1), Code of Alabama 1975, requires voting systems in Alabama to “Be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.” Although there is some question whether this provision applies to municipal elections, the League recommends that municipalities comply with it.

### Election Officials (“Poll Workers”) – Before August 11, 2025

Not less than fifteen (15) days before the holding of any municipal election, the municipal governing body, or a majority thereof, must appoint, from the qualified electors of the respective wards or voting districts, officers to hold the election. Section 11-46-27, Code of Alabama 1975.

Where paper ballots are used, there shall be:

*one returning officer for each ward and three inspectors and two clerks for each box at each voting place.*

If the municipality with a central voting location under Section 11-46-24, Code of Alabama 1975, uses paper ballots, there must be:

*one returning officer; one chief inspector; and two clerks for each box. If machines are used in the central location, there must be one chief inspector; one inspector; one chief clerk; and two assistant clerks for each machine. There must also be at least one machine or ballot box for each district or ward.*

Where electronic machines are used, Rule 307-X-1-.10 provides that elections officials are to be appointed in accordance with the provisions of §17-6-1 *et seq.* The appointment and duties of municipal election officials, though, are governed by several Code sections, especially §§11-46-27 and 11-46-24. Because the rules provide that municipal provisions control where there is a conflict, we must look at the provisions in Title 11 to determine the number and responsibilities of the officials.

Section 11-46-27 provides that:

*where paper ballots are used, there shall be one returning officer for each ward and three inspectors and two clerks for each box at each voting place.*

*In the event that voting centers or central voting places are used, the requirements set out in §11-46-24, as amended, shall control the number of election officials.*

In any event, Rule 307-X-1-.10(1) states that there must be at least one inspector and three clerks. The League recommends following manufacturer’s recommended guidelines or those of the entity that supplied the machines in determining the number of officials that must be appointed, keeping in mind that there must be at least one inspector and three clerks.

#### The inspector:

1. is in charge of the precinct,
2. serves as official challenger in accordance with §17-10-2 (§§11-46-38 and 11-46-39 in municipal elections) and
3. is the precinct returning officer.

**The registration list clerk** is responsible for checking voters names against the list of registered voters and marks off the names of those who vote to prevent double voting. If anyone whose name does not appear on the list of registered voters is permitted to vote by certificate or by provisional ballot, the clerk must:

1. legibly print their name and address on the voters list,
2. mark through the names to indicate that they have voted, and
3. record by the names the means by which they voted (certificate with the source and date or by provisional ballot).

**The poll list clerk** shall ensure that each voter signs the poll list. If the voter's signature is illegible, the clerk must print the voter's name on the same or a duplicate list so that the signature can be identified. The poll list clerk then gives the voter a marksense ballot, being sure that the stub remains attached to the ballot pad. The ballots must be given out in sequence, beginning with the lowest numbered ballot.

**Ballot clerk:** If the voter requests assistance, the ballot clerk must help the voter deposit the ballot in the precinct ballot counter or the ballot box. The clerk must take care to preserve the secrecy of the ballot box.

A municipality may employ additional poll officials as necessary to serve at any precincts and at a central ballot counter or memory pack tabulator where these are used. These additional poll officials are appointed in the same manner as other officials. The duties of these officials are determined according to Rule 307-X-1-.10 and 17-8-1 Code of Alabama, 1975.

Election officials must be chosen from the list of qualified electors eligible to vote at the respective polling places to which they are assigned. In cities of more than 10,000 inhabitants, additional election officials must be appointed to handle absentee ballots. See section on absentee voting printed below.

In any Class 6, 7, or 8 municipality, election officials must reside within the municipal corporate limits but may serve at any polling place within the municipality. An election official appointed to serve in a polling place other than where they would be required to vote may vote by absentee ballot. Section 11-46-27(a), Code of Alabama 1975.

No officer or employee of the municipality shall be eligible to serve as an election official. No kindred of any candidate or of their spouse to the second degree, according to civil law, shall be eligible to serve as an election official. Section 11-46-27(b) (2), Code of Alabama 1975. A second-degree relative is defined as a blood relative which includes the individual's brother, sister, grandparents, and grandchildren. A first-degree relative is a parent or child.

### Absentee Election Officials

In municipalities with populations of 10,000 or more, there shall be appointed one inspector and at least three (3) clerks, who shall meet when the polls close on election day in the clerk's office for the purpose of receiving, counting and returning the ballots cast by absentee voters. Section 17-11-11(a), Code of Alabama 1975. In municipalities with populations of less than 10,000, the governing body *may* appoint additional election officials as provided above. If a municipality chooses to appoint extra officials for this purpose, it must adopt an ordinance at least six (6) months prior to the election stating that at the time other election officials are appointed, additional officials will be appointed who shall meet on the day of the election at the place and hour designated by the governing body for the purpose of receiving, counting, and returning the absentee ballots cast at the election. There must be at least three election officials appointed for this purpose. When other officials are appointed, one shall be designated as the inspector. Section 11-46-27, Code of Alabama 1975.

Sample forms to be used to appoint election officials are provided in the Appendix.

### List of Election Officers and Polling Places

At least ten (10) days prior to the election, the mayor must publish lists of election officers and the voting places to which they are assigned by posting in three public places in the municipality or by publication in a newspaper once. Section 11-46-27(f), Code of Alabama 1975.

### **Election Officer Instruction/Training**

Prior to the election, the council must provide for a school of instruction for election officials. The clerk is required to give forty-eight (48) hours notice of the time and place of the school to each election officer. Section 11-46-30(a), Code of Alabama 1975.

If the municipality uses electronic voting machines, the municipality must conduct a training school not less than five days before an election for the officials who will conduct the election. The judge of probate (probably the municipal clerk in municipal elections) shall notify such election officials of the time and place of the holding of such school of instruction and shall also publish notice at least 48 hours before the same is to be held. Section 17-8-9(a), Code of Alabama 1975.

No election official shall serve in any election in which an electronic voting machine is used, unless they have received the required training within 60 days prior to the election and is fully qualified to perform the duties in connection with the electronic voting machine, and has received a certificate from the authorized instructor to that effect. However, this does not prevent the appointment of an uninstructed person as an election official to fill a vacancy among the election officials. Although it is unclear that this provision applies to municipal elections, the League recommends that municipal governments using electronic voting machines follow this procedure. Section 17-8-9(b), Code of Alabama 1975.

### **Compensation of Election Officials**

Section 11-46-27(h), Code of Alabama 1975, provides that the returning officers, the inspectors and the clerks at polling places where voting is solely by paper ballots shall be entitled to such compensation as the municipal governing body establishes but which in no event shall be less than \$8.00 per day, and each election officer at a polling place where elections are conducted in whole or in part by voting machines shall be entitled to such compensation as the municipal governing body establishes but which in no event shall be less than \$8.00 per day. The compensation of the election officials shall be paid as preferred claims out of the general fund of the municipality holding the election on proper proof of service rendered.

### **Failure of Election Officials to Attend Polls**

Whenever a person who has been appointed an election official fails to attend the polls at the hour prescribed for their attendance, the election officers appointed for that voting box or machine that are present may appoint as many election officers as are needed to complete the required number of election officials for the box or machine. All persons so appointed shall be qualified electors who are entitled to vote at that polling place. Section 11-46-29(a), Code of Alabama 1975.

Should all the appointed election officers fail to be present at a polling place by the hour designated, then any three qualified electors who are entitled by law to vote at that polling place may open the polls and act as three of the election officers for such box or machine and appoint such other officers as are required to fill the place of those absent, provided that every person so appointed shall be a qualified elector entitled to vote at the polling place. Section 11-46-29(b), Code of Alabama 1975.

Some municipalities have made it a practice to appoint alternate election officials for this reason.

### **Preparing and Testing Voting Devices**

It is customary for the municipality to employ the custodian of the voting devices to assist the municipal clerk in the job of preparing the machines for the election.

Electronic voting machines must be publicly tested. Rule 307-X-1-.04 of the Alabama Administrative Code provides that the probate judge (municipal clerk in municipal elections) must have each precinct ballot counter tested to ensure that it accurately counts votes cast for all offices and measures on the ballot before each election in which the counter will be used. The precinct counter, remember, is one that tabulates marksense paper ballots at the polling place. The testing is open to the public and notice of the time and place of the test must be given. The test must be conducted as close as practicable to the date of the election and not more than fourteen (14) days before the election. Ala. Admin. Code r. 307-X-1-.04(1).<sup>15</sup>

<sup>15</sup> Previously, Section 17-24-9 Code of Alabama, 1975 provided that notice of the test must be given at least 48 hours before the test by specifically listed means; however, the section was repealed by Act 2006-570.

Under the rule, party chairmen may be present during the test. Because municipal elections are non-partisan, this rule would allow each candidate to be present or have a representative present during the test. Collectively, these individuals and the clerk must prepare a sufficient number of test ballots that are clearly marked as test ballots. The ballots must be voted so that each candidate or measure receives at least two votes. Additionally, at least one ballot must be an over-vote; that is, the ballot must be marked as an attempt to vote for more than the allowed number of candidates in one office. The test ballots may be validated by hand count or by a piece of equipment that has correctly tabulated the original test ballots. The ballots then must be hand counted and the results recorded and retained. (NOTE: If the manufacturer prescribes an alternative test method, the alternate procedure may be substituted for this test, provided that written approval is obtained from the Electronic Voting Committee).

As an alternative to the public testing of all precinct counters, the following procedure may be used. The clerk or designee shall test each counter prior to the public test and correct the causes of any discrepancies. Representatives of candidates participating in the election may attend this test. The test materials and printed output of this test shall be attached to the counters, which shall subsequently be assembled for the public test. At the public test a sample of counters shall be selected for retesting by drawing lots. At least one counter shall be selected and tested for each ballot configuration. Each candidate may select an additional machine representing each ballot type for public testing. If any precinct counter fails to produce a completely accurate count, all counters using the same ballot configuration shall be tested. Ala. Admin. Code r. 307-X-1-.04(4).

The causes of any discrepancies must be corrected before the equipment is sealed and certified ready for the election. Once any required corrections are made and each piece of equipment correctly tabulates the results, the machine must be cleared, setting all counters to zero, and making the machine ready for use on election day. The machine is then sealed by the clerk or the clerk's representative and is certified ready for use. Ala. Admin. Code r. 307-X-1-.04(5).

Memory packs and memory pack tabulators that will be used during the election must also be tested along with the precinct counters. The data from each memory pack must be read into the tabulator, and the total must then be compared with a total that is hand tabulated from the printed output of the precinct counters for at least one city-wide office, which shall be selected at the time of the test by a random procedure. Candidates for other offices, or their representatives, may audit the test totals for their office. Any discrepancies must be corrected before the equipment is certified and sealed. Ala. Admin. Code r. 307-X-1-.04(6).

After testing all materials (including the results of the hand count, the test ballots, and the printed output from the counters) must be sealed in a box or envelope, which shall be maintained unopened for use in the event of an election contest. The rule provides that this sealed box or envelope is to be kept by the sheriff. The sheriff, though, is not involved in municipal elections. Therefore, it seems that this information should be kept by someone with official election duties. In most cases, the League feels that this should be the municipal clerk. All proceedings of the voting device testing, from the beginning of the test to the conclusion, shall be open to the public. Ala. Admin. Code r. 307-X-1-.04(7).

### **Election Day - August 26, 2025**

On election day, it is the duty of the clerk to see that ballots, boxes and supplies are provided at each polling place. Section 11-46-32, Code of Alabama 1975.

Prior to the date when the mayor gives notice of the election, the municipal governing body shall, by ordinance, determine and establish the hours which the polls will be open for voting. Every polling location must be open for voting at 7:00 a.m. and remain open for voting until 7:00 p.m. All polling places located in the Eastern Time Zone *may* open and close pursuant to Eastern Time. Section 11-46-28, Code of Alabama 1975.

Central Daylight Savings Time governs the poll hours at municipal elections in Alabama. *Quarterly Report of the Attorney General*, Vol. 132, pages 28 and 32. Note, though, that Section 11-46-28, Code of Alabama 1975, allows a municipality operating on Eastern Time Zone to hold its elections on Eastern Time.

### Election Officials and Voting Device Testing

The election officers at voting places shall meet at the respective places of holding elections for which they have been appointed thirty (30) minutes before the hour and shall open the polls at 7:00 a.m. and keep them open without adjournment or recess until 7:00 p.m. and no longer.

Where electronic devices are used, Rule 307-X-1-.11 of the Alabama Administrative Code provides that all poll officials are to report to the voting place at least 30 minutes before the polls open. Where precinct counters are used, each counter must be tested according to the manufacturer's instructions to ensure that all vote counters are set at zero and to prepare the equipment for voting. Candidates may have two watchers present to observe the test.<sup>16</sup> Errors must be reported to the custodian and no votes shall be tabulated on the machine until it is repaired or substituted. Once the malfunctioning equipment is repaired or replaced and the test is satisfactorily completed, the inspector, the ballot clerk and any watcher present must sign a certificate to that effect. Although Rule 307-X-1-.11 doesn't specifically state this, presumably the rule intends that once the test is properly completed, the equipment may be returned to service.

Despite the malfunction, until the machine is repaired—or if it cannot be repaired or replaced—the polls must still open and voting shall proceed. In this case, Rule 307-X-1-.17(5) of the Alabama Administrative Code provides that where precinct ballot counters are used, voters are to deposit their ballots in a ballot box or other suitable container. The inspector shall notify the custodian, who shall attempt to repair or replace the equipment, and the municipal clerk, who shall maintain a public list of all precincts where there has been an equipment failure. If the counter cannot be repaired, when the polls close, the ballot box shall be opened and the ballots should be counted by hand, determining the voter's choice as set out below, or by feeding the ballots into an operable precinct ballot counter. Poll watchers and members of the media may observe this process.

Assuming that there is no malfunction, where vote recorders<sup>17</sup> are used, the poll officials shall compare the ballot pages of each recorder with a sample ballot for that precinct to determine that they agree. The officials must also vote every position of a specially marked demonstration ballot and compare the punches with the pages of the recorder to determine that they agree. No recorder may be used in a precinct until it has been properly verified. A vote recorder is a device into which a ballot card is inserted and which is used by the voter to punch holes in the card to record his or her vote. Ala. Admin. Code r. 307-X-1-.11(2).

### Certification that Ballot Boxes are Empty

The clerk and other verification officials must certify in writing that the boxes were empty, locked and sealed prior to the election and prior to the box being delivered to the inspectors at the respective precincts. This certificate must state the date, time and place that the boxes were inspected, locked and sealed, and must include the seal numbers that are used on the boxes. The original of this statement is part of the permanent election file. The rule requires that in state and county elections, the original must be kept by the probate judge. A duplicate copy of the statement is filed with the sheriff. Rule 307-X-1-.11(4). In municipal elections, the original should be on file with the municipal clerk. It is unclear whether a duplicate is necessary in municipal elections. The safest course, though, would be for the council to designate someone in the city or town to retain a duplicate copy. Municipalities may want to contact the machine supplier to see how this has been done in previous elections.

Once the boxes are verified as empty, they must be locked and sealed. To avoid allegations of tampering, this should take place immediately after the verification, but must occur before the boxes are issued to the inspectors at the various precincts. Rule 307-X-1-.11(3) provides that the locks may use either a key or a combination, and the seals may be either plastic, metal or any other material, as long as they are numbered. The ballot box must be designed so that no ballots can be removed without removing the lock. The numbered seal is placed on the insertion door of the box so that no ballots can be inserted into the box without removing the seal.

<sup>16</sup> Section 11-46-35 Code of Alabama, 1975 addresses the mechanism for appointing poll watchers in municipal elections. While this section provides a method for candidates to appoint poll watchers, it does not provide authority for appointing poll watchers for non-candidate elections. As such, it is League's opinion that there is no mechanism to allow poll watchers for municipal non-candidate elections.

<sup>17</sup> Although the rule still refers to "vote recorders," the League has been informed that no municipalities use this type of electronic device.

The locking and sealing of the boxes is open to the public. The clerk must notify the public when this will occur. Poll watchers may, of course, attend.

Before the polls open, the inspector at each precinct, along with another election official, shall remove the seal from the box and verify that the box is empty. If the seal has been broken or the box contains any material, the inspector must immediately call the municipal clerk<sup>18</sup> before opening the polls. If the numbered seal is intact, it is placed in an envelope and the inspector then completes the “Ballot Box Inspection Report.” This report states that the box was empty prior to opening the polls and is signed by the inspector and the other polling officials at the precinct. **Under no circumstances should the ballot box be opened at the precinct.** Ala. Admin. Code r. 307-X-1-.11(4).

### Opening Polls and Ballot Counting

Upon opening the polls, the election officials are required to subscribe to an oath to conduct the election according to law. Section 11-46-28, Code of Alabama 1975.

In any hand count of an electronic voting device, Rule 307-X-1-.17(4) provides that polling officials must review each ballot to determine the elector’s choice for each office to be filled. This determination shall be made pursuant to the standards set forth below. Once the voter’s choice is determined, the polling officials shall manually add the elector’s votes to the total votes for each candidate for the offices to be filled.

To determine the voter’s choice, poll officials must consider the ballot as a whole, taking into consideration the manner in which the voter marked the ballot, when determining the voter’s choice. Only choices marked consistently are to be counted. “Marked consistently” refers specifically to the manner in which the voter has expressed his or her choice, such as the method of marking the ballot. If the poll officials cannot determine the manner in which the voter marked the ballot, the ballot is rejected in its entirety. Ala. Admin. Code r. 307-X-1-.17(4).

The Electronic Rules provide that where electronic devices are used, an elector’s ballot must be counted for each office to be filled except for each office where it is impossible to determine the elector’s choice for that office. The inability to determine the voter’s choice for any particular office to be filled shall not cause the rejection of votes for other offices where the elector’s choice may be determined. No ballot shall be rejected for any technical error that does not make it impossible to determine the elector’s choice. Ala. Admin. Code r. 307-X-1-.17(1).

The counters shall be programmed to return the ballot to the elector if the elector has marked more names than there are persons to be elected to a particular office. The elector shall be provided the opportunity to review his or her ballot and to correct the ballot. Ala. Admin. Code r. 307-x-1-.17(2)(a).

If the elector chooses to correct the ballot, the original ballot shall be spoiled by a poll worker and the elector shall be issued a new, blank ballot. Ala. Admin. Code r. 307-X-1-.17(2)(b). If the elector chooses not to correct the ballot, the elector shall deposit the ballot into a ballot box or other suitable container. After the close of the polls, polling officials shall count the ballot by hand, determining the voter’s choice as set out above. Poll watchers of opposing interests and members of the media, if any are present, shall be permitted to witness this process. Ala. Admin. Code r. 307-x-1-.17(2)(c).

Any ballot returned by the machine in a post-election recount must be counted by hand. The results of this hand count shall be added to the certificate of results, and the ballots shall be bound separately and returned with the other ballots. If a ballot is defective and the counter is unable to accept or read the ballot, the ballot shall be spoiled and the elector shall be issued a new ballot. Poll watchers of opposing interests and members of the media, if any are present, shall be permitted to witness this process. Section 17-16-21(b), Code of Alabama 1975.

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<sup>18</sup> Again, the rule states that the sheriff should be notified. The League feels that the clerk is in the best position to perform this duty in municipal elections.

### Voter Identification

Any qualified elector entitled to vote at such polling place who has identified themselves with the election officials at such polling place by closing time shall be permitted to vote. Section 17-9-30, Code of Alabama 1975 requires that each elector provide valid identification to an election official before being permitted to vote. Any of the following forms of identification shall be allowed:

1. A valid Alabama driver's license or nondriver identification card which was properly issued by the appropriate state or county department or agency;
2. A valid Alabama photo voter identification card issued by the Secretary of State;
3. A valid identification card issued by a branch, department, agency, or entity of the State of Alabama, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;
4. A valid United States Passport;
5. A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state;
6. A valid student or employee identification card issued by a public or private college, university, or postgraduate technical or professional school located within the state, provided that such identification card contains a photograph of the elector;
7. A valid United States military identification card, provided that such identification card contains a photograph of the elector;
8. A valid tribal identification card containing a photograph of the elector.

For the purposes of valid photo identification in Section 17-9-30, Code of Alabama 1975, the Alabama Secretary of State's office recognizes that driver's licenses and non-driver ID cards issued by ALEA remain valid for sixty (60) days past the date of expiration.

An individual who does not have identification in their possession at the polls shall be permitted to vote if the individual is positively identified by two election officials as a voter on the poll list who is eligible to vote and the election officials sign a sworn affidavit so stating. Section 17-9-30(e), Code of Alabama 1975. An individual who is unable to meet the identification requirements listed above shall be permitted to vote by provisional ballot. *See* Section 17-10-2, Code of Alabama 1975. Municipal elections officials will need to be instructed on this difference between state, county and federal elections and municipal elections. Many of the officials used in municipal elections also serve in these other elections so they will need to be trained on this distinction.

### Closing the Polls

Once the polls close and the records are sealed, the poll officials must lock the equipment against further voting by following the manufacturer's instructions. Section 17-16-21(c), Code of Alabama 1975; Ala. Admin. Code r. 307-X-1-.18(1).

According to Rule 307-X-1-.18(1) of the Alabama Administrative Code, the election officials must also obtain a printout of the votes on each question and office. The first printout shall be torn from the equipment so that all printing during the day, from the initial test before the polls open through the first printout of results shall be on one continuous sheet or roll of paper. Then, other printouts of the results shall be produced and torn out. To each certificate shall be added, if it is not automatically printed, the following information:

1. The name of the precinct;
2. The date;
3. The identifying number (serial number) of the tabulating equipment;
4. The value of the public counter (indicating the number of votes cast);
5. The name of each candidate next to the total number of votes cast for that candidate; and
6. The number and short title of each proposition next to the number of votes for and against that proposition.

According to Rule 307-x-1-.19(1), after completing and signing the certificate of result, the election officials shall seal the ballots, certificates, and other records as follows:

1. The list of registered voters, the record of assisted voters, the ballot accounting certificate and the first copy of the certificates of result are placed in an envelope addressed to the municipal clerk, who shall keep them for public inspection and/or an election contest, and the list of registered voters or a copy thereof may be used by the board of registrars in updating their records.
2. All used marksense ballots (both voted and spoiled), all challenged ballots, one copy of the certificate of result, the poll list (which is already sealed in a separate envelope), one copy of each challenged voter's affidavit and each witness' affidavit, and all requests for assistance in voting shall be placed in a large envelope or box, which is sealed and signed across the seal by all inspectors. The inspector shall retain possession of the memory pack until it is read into the tabulator.

Each envelope or box shall be sealed and signed across the seal by the inspectors. On the outside of each envelope the inspectors shall record the precinct or district and the date of the election. The envelopes or boxes shall remain unopened and be returned by the inspector or returning officer immediately in the manner provided for by law. These records are to be retained in accordance with the records retention schedule adopted by the State Records Commission.

Poll lists are not public record.<sup>19</sup> Any election officer or any other person who makes a copy of the poll list, or any memoranda therefrom, or list of the persons voting or the number of their ballots or discloses the number of such voter's ballot shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$200.00. Section 11-46-61(f), Code of Alabama 1975; Section 17-17-16, Code of Alabama 1975.

The municipal clerk may order a post-election retest of any electronic machine using the same procedures prescribed for the pre-election test. If the retest shows a malfunction or error in the equipment or its program, the clerk must order a recount as provided below. In this circumstance, the municipality pays the cost of the recount.

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<sup>19</sup> A poll list is different than a list of registered voters.

### Voting Device Breakdown

Electronic voting machines that break down during the election should be handled as discussed above in the section titled “Election Day.”

Voting machines that break down during an election should be repaired or a substitute obtained. If this cannot be accomplished, paper ballots should be used. AGO 1980-458 (to the Hon. James M. Oliver, July 10, 1980).<sup>20</sup>

### Proximity to the Polling Place

The marshal, chief of police, or other chief law enforcement officer of the municipality shall preserve good order at all municipal elections held in the city or town, but no more than one officer shall be allowed to enter the polling place at the same time.

Except as electors are admitted to vote and persons to assist them and except for the above-mentioned law enforcement officers, the election officers and the watchers, **no person shall be permitted within thirty (30) feet of the polling place.** Sections 11-46-28(i) and 17-9-50, Code of Alabama 1975. Regulations of this type are constitutional. *Burson v. Freeman*, 504 US 191 (1992).

**The 30-foot distance shall be measured from the door of the building in which the voting machines or ballot boxes are located.** AGO 1982-113 (to the Hon. Don Siegelman, December 10, 1981).

Children under the age of 18 may accompany parents into the voting booth. AGO 1980-414 (to the Hon. Don Siegelman, June 11, 1980).

All citizens are allowed to photograph or videotape general election activities in a polling place as long as they remain 30 feet outside. After the polls close, at least one member of the news media must be allowed, if requested, to enter the polling place and to photograph or videotape the vote tabulation process. However, Section 17-9-50, Code of Alabama 1975, prohibits any person from taking photographs or videotaping inside of or within 30 feet of a polling place while voting is in progress. AGO 2000-160.

According to a November 3, 1994 letter from the Secretary of State, the Justice Department has ruled that videotaping at a polling place may intimidate voters, and may constitute a violation of the Voting Rights Act.

### Photographing Ballots

Section 17-9-50.1, Code of Alabama 1975, provides that it shall be a Class A misdemeanor to photograph a ballot, other than an individual’s own ballot or to reveal another voter’s ballot in a manner that would disclose its contents to anyone other than an individual lawfully assisting the voter. In addition, a voter is not prohibited from making available a photograph of the voter’s own ballot by posting the photograph on the Internet or in some other electronic medium, and any transmittal of the photograph to a third party.

As discussed in the previous section, the Attorney General issued an opinion indicating that no one can photograph or video tape within 30 feet of a polling location. AGO 2000-160. The opinion is based on what is now Section 17-9-50, Code of Alabama 1975, which prohibits anyone except the voter, the voter’s assistant, if needed, and election officials from being within 30 feet of the polls during an election. Arguably, Section 17-9-50.1 presumes that a voter can photograph their own ballot within the polling location on election day. Election officials will need to be made aware of this and it will add another layer to their already detailed duties on election day.

### Voter Assistance

The procedures to be followed relating to the assistance of disabled and illiterate voters are set out in Section 11-46-51, Code of Alabama 1975. Note that procedures similar to these in the general election laws of Alabama (formerly Section 17-8-29,

<sup>20</sup> It is the League’s understanding that voting machines are not currently used by any municipality in Alabama.

Code of Alabama 1975) were declared unconstitutional by a federal district court in *Harris v. Siegelman*, 700 F. Supp. 1083 (M.D. Ala. 1988). Pursuant to this court decision, any voter may obtain assistance from any individual, except the voter's employer or union representative. Voting assistance is allowed provided that the voter and the person rendering assistance legibly sign the proper column on the voters' poll list. The provisions outlined in the case have now been codified in Section 17-9-13, Code of Alabama 1975. To date, Section 11-46-51 has not been amended to reflect the changes made as a result of the *Harris* case. Regardless, the League recommends following the guidance and direction of the *Harris* case.

A voter should be allowed to choose any person they desire to assist them in voting, even though the person chosen has assisted other voters in the election.

There is no prohibition against a candidate or a poll watcher assisting a voter in the preparation of his or her ballot.

### Poll Watchers

Each candidate may name a watcher for every polling place. A polling place is defined as a location for ballot boxes or voting machines, regardless of the number thereof. Section 11-46-35(a), Code of Alabama 1975.

The watcher must present their appointment in writing and be sworn faithfully to observe the rule of law prescribed for the conduct of elections. After being sworn, watchers shall be permitted to be present at the place where ballots are cast from the time the polls are opened until the ballots are counted and certificates of the result of the election are duly signed by the proper election officers. The watcher's function is to observe the activities at the polling place. Watchers may not disturb voters, attempt to influence voters, campaign, or display or wear any campaign material or buttons while inside any polling place. Section 11-46-35(b), Code of Alabama 1975.

When paper ballots are used at the election, the watcher shall be permitted to see the ballots as they are called during the count. Section 11-46-35(c), Code of Alabama 1975.

### Provisional Ballots

The provisional voting requirements are located in Sections 17-10-1 through 17-10-3, Code of Alabama 1975. A voter is required to cast a provisional ballot when:

1. The name of the individual does not appear on the official list of eligible voters for the precinct or polling place in which the individual seeks to vote and the individual's registration cannot be verified while at the polling place by the registrar, deputy registrar, or a member of the canvassing board. See also §11-46-39(a) which provides that if a person's name does not appear on the list of qualified voters for a ward or box, the person may not vote except by provisional ballot.
2. An inspector has knowledge that the individual is not entitled to vote at that precinct and challenges the individual.
3. The individual is required to comply with the voter identification provisions of Section 17-10-1, Code of Alabama 1975, but is unable to do so.
4. A federal or state court order extends the time for closing the polls beyond that established by state law and the individual votes during the extended period of time. Notwithstanding any other provision of state law, where provisional ballots are cast pursuant to a federal or state court order extending the time for closing the polls beyond that established by state law, the provisional ballots shall be segregated from other provisional ballots into a separate sealed container for such purpose and shall be counted, tabulated, and canvassed only pursuant to the order of a court having proper jurisdiction.

The Alabama Secretary of State's website provides excellent discussion of the provisional ballot process at: <https://www.sos.alabama.gov/alabama-votes/media/elections-division-publication-downloads>.



**FOR A PRACTICAL GUIDE TO PROVISIONAL BALLOTING, PLEASE SEE APPENDIX**

### Canvassing Results - September 2, 2025

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The results of the voting at each polling place are certified by the election officials to the municipal council, which is the official canvassing body. The municipality may allow the media to be present when the ballots are counted, if it wishes to do so.

Commencing at noon on the first Tuesday after the election, the municipal clerk shall deliver to the governing body the envelopes of elections results which were delivered to the clerk, including the provisional ballot results returned by the Board of Registrars. The governing body shall canvass the returns and ascertain and determine the number of votes received by each candidate, and for and against each proposition. Section 11-46-55, Code of Alabama 1975.

Election results may be canvassed before noon seven days after the election if there are no provisional ballots cast in the election OR if the board of registrars has returned the provisional ballots early. In either of these cases, the governing body may canvass the results at any regular or special called meeting held before the Tuesday seven days after the election. Section 11-46-55, Code of Alabama 1975.

The canvass of the votes is considered a ministerial task which consists of listing the names of the candidates and showing the vote which each received at each polling place and the resulting total vote for each candidate. In so doing, the council determines whether or not a majority of the votes cast for an office have been won by any of the candidates. In doing so, the council must consider the determinations made by the Board of Registrars regarding whether a provisional ballot should be counted.

If a majority of the votes cast for an office have been won by any candidate, such candidate is declared elected to that office and the council provides them with a certificate of election.

### Declaring a Runoff Election

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Where no candidate receives a majority of the votes cast for an office, the council declares a runoff election between the top two candidates at an election to be held on the fourth Tuesday thereafter. The entire proceedings of the canvass must be recorded in the minutes of the council. Sections 11-46-21 and 11-46-55, Code of Alabama 1975.

A sample council resolution for this purpose is provided in the Appendix together with a sample certificate of election.

Votes cast for a candidate who is disqualified are not to be treated as void but must be counted in determining the total votes cast for the election. If none of the remaining candidates received a majority of the votes cast in the election, a run-off election is necessary. AGO 2001-232.

If no candidate receives a majority vote at the first election and there is a tie for second place, a runoff must be held between the top three candidates. If no candidate receives a majority at the runoff election, a second runoff must be held between the top two candidates. AGO 1981-006 (to the Hon. Mixon Jones, October 7, 1980).

If a candidate in the runoff should withdraw from the election, the law provides that there is no need to conduct the runoff election. The remaining candidate would be entitled to a certificate of election upon the withdrawal of their opponent. Where a candidate withdraws, the mayor or clerk should procure a sworn statement from the candidate to that effect, and the council should note the withdrawal in its minutes when it declares the remaining candidate elected.

### Ballot Boxes and Contents

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The clerk shall securely keep the ballot boxes until it is known that there will be no contest, but in any event not less than six months, and, if in that time no contest has been properly instituted, the clerk shall then destroy the contents of such boxes without examining the same. Section 11-46-46, Code of Alabama 1975(b).

No ballot box shall be opened except in one or the other of the following events:

- Where the box has been ordered opened by a court hearing a contest of the elections; or
- For the purpose of canvassing returns where the box has been returned but no certificate of result of the election has been separately delivered to the governing body by the election inspectors.

- For the purpose of conducting a recount of the ballots as allowed by law.

In any of these instances, the clerk should follow carefully the provisions of Section 11-46-46, Code of Alabama 1975.

### **Recount - No Later than September 4, 2025 (for General Election)**

Section 11-46-55.1, Code of Alabama 1975 relates to municipal election recounts. This provision, rather than provisions relating to state elections should be followed in municipal elections.

Any person with standing to contest a municipal election may petition the canvassing authority for a recount of any or all precinct returns within 48 hours of the official canvass of returns by the municipal governing body. The petitioner is responsible for the cost of the recount and is required to give security to cover such costs in an amount to be determined by the governing body. However, if the recount alters the result of the election, the cost of the recount shall be borne by the municipality.

The recount must be conducted under the supervision of a trained and certified election official.

Representatives of opposing interests must be given at least 24 hours notice of any recount and shall be invited to participate in the recount.

Any recount should be conducted as simply as the type of equipment and local conditions permit provided that the following minimum safeguards are observed:

1. The box or envelope holding the ballots shall be delivered unopened to the inspector in charge of the recount.
2. A representative of the municipality shall be present during the recount.
3. Where ballots are counted by hand, representatives of opposing interests have the right to participate in the hand count, and any unresolved disputes over the interpretation of the voter's intent may be appealed to the municipal governing body.

When the recount is completed, the ballots must be returned to their container along with a copy of the recount results. The container shall be sealed and signed by the inspector and by a representative of the authority having custody of the ballots.

If the recount produces a change in precinct totals of sufficient magnitude to alter the result of the election, the outcome shall constitute grounds for an election contest as prescribed by law.

### **Runoff Elections - September 23, 2025**

Immediately after the canvass, the council announces the runoff election, which shall be conducted in all respects as the regular election except that it will include only those offices for which no one received a majority of the votes cast in the regular election, and it will include only the top two candidates for each such office, unless there was a tie for second place in the regular election.

The mayor should immediately publish notice of the election and order the necessary supplies.

The second election shall be held by the same election officers who held the first election and at the same places the first election was held. Section 11-46-55, Code of Alabama 1975.

In a runoff election, there must be one electronic voting machine for every 2,400 voters or fraction thereof.

The results of the runoff election are determined by canvass conducted by the council on the first Tuesday next after the election, commencing at 12:00 noon. The candidate who receives a majority of the votes in the runoff is declared elected and the council will provide them with a certificate of election.

If there should be a tie vote in the runoff election, the tie shall be decided by the municipal governing body in office at the

time of the election. A vote for a particular candidate by a majority of those councilmembers eligible to vote shall be necessary to decide the winner of the election.

### **Tie Breaking Method After Runoff Election**

In 2015, Section 11-46-55, Code of Alabama 1975, was amended to address the mechanism for breaking a tie after a municipal runoff election. If a tie remains after the runoff election, the council has the first opportunity to decide the winner. If the council chooses to break the tie, it must act no later than 12:00 noon on the first Tuesday following the runoff election. If the council fails to break the tie, the elected candidate will be decided by lot, in the presence of the candidates, by the probate judge no later than 5:00 P.M. on the first Tuesday following the runoff election. For municipalities whose boundaries extend in more than one county, the League believes that the probate judge in the county where the town hall or city hall is located would break the tie.

Any probate judge who openly participated in the promotion of candidates in the election which resulted in a tie shall be disqualified from deciding the outcome of the election. The presiding circuit court judge in the county where the municipal town or city hall is located shall replace the disqualified judge. Section 11-46-55(f), Code of Alabama 1975.

### **Filing of Certificates of Election**

The municipal clerk shall file a copy of each certificate of election in the office of the judge of probate of the county in which the city or town hall is situated, and the judge shall file such certificate in the manner that he files the declaration of the result of elections to county offices. Section 11-46-55, Code of Alabama 1975.

Newly-elected officials shall assume office on the first Monday in November.

### **Additional Copy of Returns to Probate Judge**

Section 17-12-12, Code of Alabama 1975, requires election officials to make an additional copy of the returns from each polling place at any state, county, municipal or local election and deliver it to the probate judge who shall preserve it as a public record for at least one year. Section 17-12-11, Code of Alabama 1975. It is a Class C misdemeanor to fail to do so. Section 17-17-29, Code of Alabama, 1975. If your municipality is located in more than one county, the additional copies must be filed in each county.

### **Disposition of Records After Election**

Section 17-9-15, Code of Alabama 1975, provides that at the close of all municipal elections, the list of registered voters and the voter re-identification forms shall be returned to the board of registrars in a sealed envelope addressed to the board. The inspectors and any poll watchers present shall sign across the seal.

### **Contests**

Any contest of the municipal general election must be commenced within five (5) days after the results of the election are declared by the council following its canvass. Section 11-46-69, Code of Alabama 1975.

Proceedings relative to contests are governed by the provisions of Articles 2 and 3, Chapter 16 of Title 17 and by Sections 11-46-69 and 11-46-70, Code of Alabama 1975. AGO to the Hon. Gwin Alderman, August 24, 1972.

In *Turner v. Cooper*, 347 So.2d 1339 (Ala. 1977), the Alabama Supreme Court held that the annulment of city elections under the mayor-council election laws requires either proof of illegal votes, rejected legal votes, or the failure of the contestee to receive the requisite number of legal votes. See also *Nunley v. Abernathy*, 622 So.2d 922 (Ala. 1993). Errors and irregularities of election officers which are shown not to affect the election result will not be considered in a municipal election contest, otherwise legal voters would be deprived of their franchise.

Absent any ruling by the court in which an election contest is filed that a city official must not assume office, all newly-elected officials, including the official whose election is being contested, should be sworn in on the appropriate day. AGO to the Hon. Roy Coffee, September 23, 1976.

When a municipal election contest is appealed, the candidate receiving the majority vote in the election must be sworn in and certified pending final action by the Alabama Supreme Court. AGO 1981-112 (to the Hon. Clarence Rhea, December 9, 1980).

### **Duties of the Clerk - Organization of New Council - November 3, 2025**

Newly-elected municipal councils shall assemble and organize on the first Monday in November following their election. At this time more than at any other moment in the administrative cycle of cities and towns, the guidance and arrangements of the municipal clerk are needed and appreciated. Section 11-43-44, Code of Alabama 1975.

If the municipality has less than 12,000 inhabitants, the clerk should contact the mayor-elect at an early date to fix the time and place of assembly for the organizational meeting.

If the municipality is 12,000 or more in population, the clerk should contact the president-elect of the council, if the city voters elect a council president, for this purpose.

The Open Meetings Act requires at least 7 days notice of meetings unless otherwise specifically provided for by law. Once a time is established for the organizational meeting, the clerk should post notice. Section 36-25A-3(a).

At this time, it is necessary to decide on the person who will be asked to administer the oath of office to the newly-elected officers of the municipality when they assemble at the organizational meeting.

The clerk should notify all members of the newly-elected governing body of the time and place of the organizational meeting and make arrangements for the officer who will administer the oaths unless the mayor-elect has taken this responsibility. The clerk should prepare forms, in duplicate, for the oath of office for each officer to subscribe before the administering officer.

A sample oath is provided in the Appendix.

When the new council assembles in the organizational meeting, the clerk should take minutes of the meeting, noting that it is the organizational session. The order of business should include the following:

- The clerk should have each new officer sign the oath in duplicate. One copy is kept for the records of the clerk and the other is filed by the clerk with the probate judge of the county in which the municipality is located. The clerk may want to prepare a third copy for the elected official.
- The mayor presides over the council in municipalities of less than 12,000 population. In such municipalities, the first act of the council should be the election of a chairman pro tempore of the council who will perform the duties of the mayor when they are absent or unable to perform their duties.
- In cities of 12,000 or more having a large council with a council president, the council president presides and the first order of business would be the election of a council president pro tempore.
- In cities of 12,000 or more which have a council which does not have a president elected by the voters, the first order of business is the election of a council president to preside and then the election of a council president pro tempore. In this latter instance, it is in order for the clerk to preside over the council until it elects its council president.
- The next order of business is for the council to establish the time and place of regular meetings to be held each month. Towns are required to meet at least once a month and cities are required to meet at least twice a month.
- It is then advisable for the council to adopt rules of procedure which it will follow in its deliberations for the coming term. Reference is made to the *Handbook for Mayors and Councilmembers*.

- Following the adoption of procedural rules, there should be the appointment of committees. While it is dependent upon the ordinances of the municipality establishing committees, it is general practice for the presiding officer of the council (the mayor in municipalities under 12,000) to make committee appointments. Prior to the organizational meeting, the clerk should discuss this matter with the presiding officer of the new council so they will be prepared to make these appointments.
- Since it is usually not desirable to make appointments and establish salaries for personnel at the organizational session, the council should adopt a motion providing that all administrative officers and employees of the municipality shall continue in their respective duties temporarily, pending such time as the council shall make permanent appointments.
- The council should ratify the use of present depositories for municipal funds until such time as the council shall permanently designate such depositories.
- If the municipality owns and operates its own utilities system or systems, the council might wish to appoint the mayor to act as superintendent of such system or systems and provide compensation for their services in this capacity. State law provides that a mayor who serves as superintendent of a municipal utility system shall receive the amount of compensation set by the appointing authority. See Section 11-43-80, Code of Alabama 1975.

A sample ordinance to be used to hire the mayor as utility superintendent is provided in the Appendix. Please note that if the city utilities are operated by a separately incorporated utility board, the decision as to who to hire as utility superintendent is made by the board, not the governing body of the city.

### Additional Assistance

In the months leading up to the election, the League plans to address many of the election issues that are likely to arise. Our attorneys will participate in numerous election seminars and we encourage all persons involved in the election process to take advantage of these opportunities to attend and learn as much as possible, and to participate in discussions with League attorneys and other officials, especially those who have been through elections before. We hope to anticipate the problems before they arise and to assist clerks and others who are responsible for conducting fair and impartial elections. For additional assistance on election questions, it is suggested that the person charged with the responsibility for conducting the municipal election contact the Attorney General or the Secretary of State or the company providing election materials for the municipality. The Secretary of State's office has many useful documents, booklets and forms available on-line. For example, the QR code and following link contain links for documents relating to voter information, candidate filing guides, FCPA filing guidelines and provisional balloting information:



<https://www.sos.alabama.gov/alabama-votes/voter/election-information>

# 2025 MUNICIPAL ELECTIONS CALENDAR

(Citations are to the Code of Alabama, 1975)

**DISCLAIMER:** This election calendar is provided as a service to candidates running in the general municipal election and those officials responsible for conducting the municipal election to be held on August 26, 2025, with a run-off on September 23, 2025, if necessary. *Use of this calendar is at the sole risk of the candidate. It is the responsibility of the candidate or official to verify the dates on which forms are due.* It is the sole responsibility of the user to confirm any changes to election laws or deadlines which may occur after the publication of this calendar. The Alabama League of Municipalities and the municipality and/or official that may distribute this form disclaim any responsibility or liability for failure to comply with any filing requirement or any other election law.

Date references are to the year 2025 unless otherwise indicated and all citations, unless otherwise indicated, are to the Code of Alabama 1975. In most cases, the dates printed in this publication represent the final deadline for performing the listed duties. The League urges officials and candidates to accomplish these duties well in advance of the deadline.

## August 26, 2024

- ☐ First day candidates for municipal elections can raise or spend money. §17-5-7(b)(2).
- ☐ An ordinance establishing the use of electronic vote counters must be adopted. No deadline is set, but the ordinance must be adopted far enough in advance to meet other election deadlines. §17-7-21.

## February 26, 2025

- ☐ Last day for the council to change the salaries for officials who will be elected in August, not less than 6 months prior to the election) §§11-43-2(d) and 11-43-80(b).
- ☐ Last day for the council to decide whether to elect councilmembers at large or from districts, not less than 6 months before the election. §§11-43-2(d) and 11-43-63.
- ☐ Last day where the council may, in municipalities with a population of less than 10,000, according to the most recent decennial census, provide for a procedure for the appointment of additional election officials to receive, count, and return absentee ballots cast at the election, at least 6 months prior to an election. §§11-46-27(d), 17-11-10(b)(4) and 17-11-11(c).

## March 31

- ☐ Last day for councils elected at large to number the places for election purposes prior to the first day of April preceding the election. §11-46-22(a).

## May 26

- ☐ Last day for the council to change its district lines no less than 3 months prior to the election. §11-46-23.
- ☐ Last day for the council to change the location of designated voting places or add an additional voting place. See §17-6-4(d).

## May 28

- ☐ Last day a person can become a resident of the municipality and district in order to become a candidate (90 days immediately prior to the election) §§11-46-25(g), and 11-43-63.

## June 5

- ☐ Last day on which the council may adopt an ordinance establishing qualification fees at least 5 days prior to the first day to a candidate may qualify. §11-46-2.

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**June 10**

- ☐ Mayor gives notice of the election on the second Tuesday in June. §11-46-22(a).
- ☐ Candidates may begin qualifying at city hall once notice is published. Qualifying forms are available from the municipal clerk. §11-46-22(a).
- ☐ Candidates must file a Statement of Economic Interests form with the ALABAMA ETHICS COMMISSION in order to appear on the ballot. §36-25-15(a).

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**June 24**

- ☐ Last day, by 5:00 p.m., to qualify to run for municipal office. §11-46-25(g).

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**June 27**

- ☐ First day to conduct a training school for officials who will conduct an election using electronic voting machines. §17-8-9.

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**June 30**

- ☐ Last day for municipal clerk who receives qualification papers from candidates on June 24, to notify the Alabama Ethics Commission the name of the candidate and the date on which the person became a candidate. §36-25-15(b).

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**July 15**

- ☐ Mayor must file a list of qualified voters with the municipal clerk on or before the third Tuesday in July before the regular municipal election. §11-46-36(a). If the mayor is a candidate in the election, the council must appoint a qualified person to perform this duty. §11-46-37.

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**July 25**

- ☐ Last day to display sample ballot at least thirty (30) days prior to the municipal election. §11-46-31.

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**July 27**

- ☐ Last day to establish residency to vote in municipal general election thirty (30) days prior to the election. §11-46-38(b).

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**July 29**

- ☐ Last day for mayor to deliver absentee election supplies to the municipal clerk not less than 28 days prior to the general election. §17-11-12, §11-46-32.

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**August 11**

- ☐ Last day for the council to appoint election officials not less than fifteen (15) days before the municipal election. §11-46-27(a). **NOTE:** The municipal clerk must hold an election school for the persons chosen as election officials and must notify the official that they have been selected at least 48 hours before the school is scheduled. §11-46-30.
- ☐ Last day to register to vote for the municipal general election. All board of registrars close registration books fourteen (14) days prior to election. §11-46-38(b); §17-3-50.

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**August 12**

- ☐ **Electronic Voting Rule** – First day to publicly test electronic vote counters, not more than fourteen (14) days before the election. Rule 307-X-1-.04, Alabama Administrative Code.

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**August 15**

- ☐ Last day for the mayor to publish lists of the election officers and the voting places to which they are assigned, at least ten (10) days prior to the election. §11-46-27(f).

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**August 18**

- ☐ Beginning on this day, any absentee applicant who has not included a copy of acceptable ID but who is otherwise qualified to vote shall be issued a provisional absentee ballot. §17-9-30(c).

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**August 19**

- ☐ Last day to receive an application for a regular absentee ballot by mail, no less than seven (7) days prior to the election. §17-11-3(b).

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**August 21**

- ☐ Last day for a voter to hand deliver an application for a regular absentee ballot, no less than five (5) days prior to the election. §17-11-3(b).
- ☐ Last day to publish the list of qualified voters, at least five (5) days prior to the election. §11-46-36(a).
- ☐ Last day to conduct a training school for officials who will conduct an election using electronic voting machines, not less than five (5) days before an election. §17-8-9(a).

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**August 25**

- ☐ The municipal clerk, along with two watchers, must inspect and seal voting tabulators which will be used in the election beginning no later than 9:00 a.m. §11-46-33(a)(6)(b).
- ☐ An absentee ballot (non-emergency) must be received by hand delivery no later than the close of the last business day preceding the election. § 17-11-18(a).
- ☐ Last day for a voter to apply for an emergency absentee ballot no later than the close of the business day one day prior to the election. § 17-11-3(e)(2).

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**August 26 - ELECTION DAY**

- ☐ **Regular municipal elections are held on the fourth Tuesday in August. §11-46-21(a).**
- ☐ **NOTE:** All polling places shall be open for voting from 7:00 a.m. to 7:00 p.m. §11-46-28(a).
- ☐ Election officials must meet at their respective polling places at least 30 minutes before polls open. §11-46-28(a).
- ☐ The municipal clerk must ensure that all ballots, boxes and supplies are provided at each polling place, or if machines are used, that proper supplies are provided at each polling place. §11-46-33.
- ☐ **NOTE:** Candidates may appoint a poll watcher to observe voting procedures in the polling place. The appointment must be made in writing, signed by the candidate, and filed with the election officials at the polling place. §11-46-35.
- ☐ Precinct counters must be tested according to the manufacturer's instructions to ensure that they are set at zero and prepared for voting. Rules 307-X-1-.11, Alabama Administrative Code.

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**ABSENTEE BALLOTS ON ELECTION DAY.**

- ☐ An absentee ballot returned by mail must be received no later than noon on the day of the election. §17-11-18(a) as amended by Act 2021-364.
- ☐ An emergency absentee ballot for a registered voter who requires emergency treatment by a licensed physician within 5 days of the election must return the absentee ballot by 12:00 noon on the day of the election. §17-11-3(d).
- ☐ Beginning at 7:00 a.m., the municipal clerk shall deliver the sealed affidavit envelopes containing absentee ballots to the absentee election officials. §17-11-10(b)(1) as amended by Act 2021-364.

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**August 27**

- ☐ Deadline for the absentee election manager to notify voters, whose absentee ballots have become provisional due to the inspector's personal knowledge that voter was not eligible to vote, by mailing a copy of the challenge statement of the inspector by the day after the election. §17-10-2(c)(3)(b).
- ☐ Municipal clerk must deliver the written affirmations of the provisional voters, inspector challenge statements, and all voter re-identification forms in a sealed envelope addressed to the board of registrars no later than noon on the day following the election. §17-10-2(d).

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**August 29**

- ☐ Last day, no later than 5:00 p.m. on the Friday following the election, for a provisional absentee voter who was required to provide identification but failed to provide it before the election to submit identification to the board of registrars in order to have the vote counted. §17-10-2(c)(1)(b)(3).

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**September 2 - CANVASSING OF ELECTION RESULTS**

- ☐ Commencing at noon on the first Tuesday after the election, the council must canvass the election results. §§11-46-55(a) and 11-46-46. If a candidate receives a majority of the votes cast for the office, the council issues a certificate of election. If no candidate receives a majority, the council shall order a run-off election to be held on the fourth (4<sup>th</sup>) Tuesday following the regular election. §§11-46-55(d) as amended by Act 2021-364 and 11-46-21(a) as amended by Act 2021-164.

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**September 4**

- ☐ Deadline for anyone with standing to contest the election to request a recount. Request must be within 48 hours of the official canvass on September 2. §11-46-55.1.

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**September 8**

- ☐ Last day a candidate may contest the results of the general election, within 5 days after the result of the election is declared. §11-46-69.

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**September 11**

- ☐ Last day for the municipal clerk to file certificates of general municipal election with the probate judge, Secretary of State and Alabama League of Municipalities. Must be within 10 days of canvassing results. §11-46-55(g) as amended by Act 2021-164.

# Municipal Run-Off Election Calendar

## These Dates Only Apply to Municipalities Holding a Run-Off Election

### September 5

- ☐ Last day to deliver absentee ballots and supplies to city clerk for the runoff election, not more than 10 days after first election. §17-11-12.

### September 8

- ☐ Last day for the council to appoint election officials not less than 15 days before the municipal run-off election. **NOTE:** The municipal clerk must hold an election school for the persons chosen as election officials and must notify the official that they have been selected at least 48 hours before the school is scheduled. §§11-46-27 and 11-46-30.
- ☐ Last day to register to vote for the municipal run-off election. All board of registrars close registration books fourteen (14) days prior to election. §§11-46-38 and 17-3-50.

### September 9

- ☐ First day to publicly test electronic vote counters, not more than fourteen (14) days before the election. The test must be conducted as close as practicable to the date of the election. The test is open to the public. Rule 307-X-1-.04, Alabama Administrative Code. **NOTE:** The League recommends forty-eight (48) hours-public notice of the test.

### September 15

- ☐ Beginning on this day, on or after the eighth day prior to the election, any absentee applicant who has not included a copy of acceptable ID but who is otherwise qualified to vote shall be issued a provisional absentee ballot. §17-9-30(c)

### September 18

- ☐ Last day for a voter to apply for a regular absentee ballot five (5) days before the runoff election. §17-11-3(a).
- ☐ Last day to publish the list of qualified voters, at least five (5) days prior to the runoff election. §11-46-36.
- ☐ For election officials who were not trained prior to the general municipal election, last day to conduct a training school for officials who will conduct an election using electronic voting machines, not less than five (5) days before an election. §17-8-9.

### September 22

- ☐ The municipal clerk, along with two watchers, must inspect and seal voting tabulators which will be used in the election beginning no later than 9:00 a.m. §11-46-33(a)(6)(b).
- ☐ An absentee ballot (non-emergency) must be received by hand delivery no later than the close of the last business day preceding the election. §17-11-18(a) as amended by Act 2021-364.
- ☐ Last day for a voter to apply for an emergency absentee ballot no later than the close of the business day one day prior to the election. §17-11-3(e)(2).

## September 23 - RUNOFF ELECTION DAY

- ☐ A runoff election is held on the fourth Tuesday following the regular election. §§11-46-55(d) as amended by Act 2021-364 and 11-46-21(a) as amended by Act 2021-164.
- ☐ **NOTE:** All polling places shall be open for voting from 7:00 a.m. to 7:00 p.m. §11-46-28(a).
- ☐ Election officials must meet at their respective polling places at least 30 minutes before polls open. §11-46-28(a).
- ☐ The municipal clerk must ensure that all ballots, boxes and supplies are provided at each polling place, or if machines are used, that proper supplies are provided at each polling place. §11-46-33.
- ☐ Candidates may appoint a poll watcher to observe voting procedures in the polling place. The appointment must be made in writing, signed by the candidate, and filed with the election officials at the polling place. §11-46-35.
- ☐ Precinct counters must be tested according to the manufacturer's instructions to ensure that they are set at zero and prepared for voting. Rules 307-X-1-.11, Alabama Administrative Code.

### Absentee Ballots on Election Day

- ☐ Beginning at 7:00 a.m., the municipal clerk shall deliver the sealed affidavit envelopes containing absentee ballots to the absentee election officials. §17-11-10 as amended by Act 2021-364.
- ☐ An absentee ballot returned ***by mail*** must be received no later than noon on the day of the election. §17-11-18(a) as amended by Act 2021-364.
- ☐ An emergency absentee ballot for a registered voter who requires emergency treatment by a licensed physician within 5 days of the election must return the absentee ballot by 12:00 noon on the day of the election. §17-11-3(d).

## September 24

- ☐ Deadline for the absentee precinct inspector to notify voters whose absentee ballots have become provisional due to the inspector's personal knowledge that voter was not eligible to vote by mailing a copy of the challenge statement of the inspector by the day after the election. §17-10-2(c)(3)(b).
- ☐ Municipal clerk must deliver the written affirmations of the provisional voters, inspector challenge statements, and all voter re-identification forms in a sealed envelope addressed to the board of registrars no later than noon on the day following the election. §17-10-2(d).

## September 26

- ☐ Last day, no later than 5:00 p.m. on the Friday following the election, for a provisional absentee voter who was required to provide identification but failed to provide it before the election to submit identification to the board of registrars in order to have the vote counted. §17-10-2(c)(1)(b)(3).

## September 30 - CANVASSING OF ELECTION RESULTS

- ☐ Commencing at noon on the first Tuesday after the election the council must canvass the election results. §§11-46-55 and 11-46-46. ANYONE WITH STANDING TO CONTEST THE ELECTION MAY REQUEST A RECOUNT WITHIN FORTY-EIGHT (48) HOURS OF THE OFFICIAL CANVASS OF THE ELECTION RESULTS. §11-46-55.1.

## October 2

- ☐ Deadline for anyone with standing to contest the election to request a recount. Request must be within 48 hours of the official canvass. §11-46-55.1.

## October 6

- ☐ Last day a candidate may contest the results of the run-off election, within five (5) days after the result of the election is declared. §11-46-69.

# Municipal Post Election Calendar

## November 3

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- ☐ Newly elected municipal officials take office on the first Monday in November following the election. §11-46-21(c).
- ☐ Council meets for its organizational session. §11-43-44.

## December 24

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- ☐ Last day for candidates ***not*** involved in the run-off election to raise money to pay off their campaign debts, 120 days after the general election. §17-5-7.

## January 21, 2026

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- ☐ Last day for candidates involved in the run-off election to raise money to pay off their campaign debts, 120 days after the runoff election. §17-5-7.

## February 2, 2026

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- ☐ Deadline to file Fair Campaign Practices Act Annual Reports for candidates who have not dissolved their principal campaign committee shall be made on or before January 31. §17-5-8(b). NOTE: Because January 31 falls on a Saturday, these reports can be filed on the next business day, Monday, February 2

## February 26, 2026

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- ☐ The municipal clerk shall destroy the contents of the ballot boxes for the municipal general election unless there is notification that the election has been contested, six (6) months after the election. §11-46-46.
- ☐ Written notices for withdrawal of candidates in municipal general election must no longer be preserved, six (6) months after the election. §11-46-25.

## March 23, 2026

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- ☐ The municipal clerk shall destroy the contents of the ballot boxes for the run-off election unless there is notification that the election has been contested, six (6) months after the election. §11-46-46.
- ☐ Written notices for withdrawal of candidates in municipal run-off election must no longer be preserved, six (6) months after the election. §11-46-25.

This image shows a single page from a document titled "2025 Elections Manual". The page number "53" is located in the top right corner. The main heading "Notes" is centered on the page. Below the heading, there are numerous horizontal lines for writing. The page is framed by a double-line border on all sides. At each of the four corners, outside the main text area, there is a small circular registration mark containing a crosshair.

# APPENDIX I

## Practical Guidelines

- **Practical Guidelines for Absentee Elections Managers**
- **Practical Guidelines for Provisional Balloting**

# Practical Guidelines for Absentee Elections Managers

Please note that this overview is not an authoritative statement of the law, nor is it a substitute for the Code of Alabama or other legal materials. This outline, prepared by an experienced municipal clerk, seeks to serve only as a practical guide of instructions for the absentee ballot process.

## Ballot Application

Anyone can pick up any number of blank absentee ballot application(s). However, only the voter may return the completed application, either in person, by mail, or by common carrier. A copy of the voter's photo identification must be submitted along with the absentee ballot application. If returned by mail applications must be returned in separate envelopes.

## Regular Absentee

A voter can vote a regular absentee ballot for the following reasons.

1. expects to be out of the municipality on election day;
2. has a physical illness or infirmity which prevents his or her attendance from the polls;
3. expects to work a shift at least ten (10) hours which coincide with the hours the polls are open at his or her regular polling place;
4. is enrolled as a student at an educational institution outside the county;
5. is in the military, or a spouse or dependent of a member of the military;
6. is an election official at a polling location other than their own;
7. is a caregiver for a family member to the second degree of kinship by affinity or consanguinity and the family member is confined to his or her home; or
8. is incarcerated in prison or jail and has not been convicted of a felony involving moral turpitude.

A voter can vote an absentee ballot either in person, through the mail, or by common carrier. The last day to apply for an absentee ballot is five (5) days prior to the election date, except for emergency absentee ballots.

## Medical Emergency

An emergency medical application can be obtained by the voter or by his/her designee. The proper box must be marked and it must be signed by the voter and by the attending physician, and also signed by the person designated to deliver the ballot for the voter. (This might happen with an emergency hospital admission, or when the voter is notified after the application cut off date that surgery is scheduled within four (4) days prior to or on election day.) The emergency medical ballot must be returned in person by the designee not later than noon on election day.

## Non-Medical Emergency

In addition to a medical emergency, an emergency absentee ballot is available for the following reasons

1. the voter is required by an employer to be unable to vote at the polls within five (5) day prior to the election;
2. the voter is a caregiver of a person who requires emergency treatment by a licensed physician within five (5) days of the election; or
3. a family member to the second degree of kinship by affinity or consanguinity of the voter dies within five (5) days of the election.

There is a box on the application to mark indicating this, and the application must be signed and sworn. The emergency ballot must be completed and submitted in person not later than 5:00 p.m. on the day prior to the election.

If the voter knows that they will be out of the municipality on both the general election day and the runoff election day, they may indicate this on one application since the elections are not more than 42 days apart. The ballots for the general and runoff elections will be sent at the proper time when candidates are known.

### Walk-in Absentees

- A. Make sure the name is on the absentee voter list or verify a recent registration by calling the County Board of Registrars. If the voter has registered recently, they may not be on the list. The Board of Registrars will send you something showing they are registered. Write it in on the list and mark it as absentee.
- B. Give them an absentee ballot application. (They may pick up as many applications as they wish, but each application must be returned in person by the voter himself or through the mail with only one application per envelope.)
- C. Once you have the signed application returned to you, and a copy of the voter's photo identification along with the absentee ballot application, Find the name on the voter list, verify the address, and underline it (red) or highlight it and put the date and "Absentee" in the margin by the name.
- D. Add the name to the daily list of persons who have requested absentee ballots. Note: Prior to the passage of Act 2019-507, the absentee election manager was required to post a list of all voters who applied for and voted by absentee ballot. Act 2019-507 repealed this requirement. Instead, the list of electors voting by absentee ballot **shall remain confidential until the day following the election**. The absentee elections manager will now deliver the list to the board of registrars the day following the election. At that point, the list becomes public record.
- E. Place a copy of the identification in your file for documentation purposes. Some clerks keep the ballot applications for each day with a copy of the absentee voter list for that day. In light of Act 2019-507, some clerks plan to staple the ID to the ballot application and keep it with the daily absentee list.
- F. Retrieve the next numerical ballot [*single type of ballot/or "at large" municipalities or specific ballot for each district in districted municipalities*] (these must be issued in order and every number accounted for - **Do not leave ballots out on the counter**). Write the Ballot Style and Ballot Number on the front of the Affidavit (AB-2) envelope. (This information is found at the bottom of the ballot.) Hand the voter the instructions, the ballot, the secrecy envelope (AB-4), the affidavit envelope (AB-2), and the brown return envelope.
- G. The voter may fill out the ballot and hand it back or may take it with them. Once the ballot is completed, have the voter fold the ballot in half once (and only once) from top to bottom so that it will fit into the Secrecy Envelope (AB-4) and the voter must seal the envelope. Envelope AB-4 is then inserted into the Affidavit Envelope (AB-2). The voter must seal that envelope and complete the affidavit on the back, sign it, and have it witnessed by a notary or two witnesses. *Suggestion: Have them complete the affidavit envelope and notarize it before they complete the ballot. You do not want to crimp the ballot. Also, it is hard to crimp then envelope with the notary seal unless you use a stamp. Afterwards tell them to complete the ballot and put the ballot in the secrecy envelope and seal and then put the secrecy envelope in the affidavit envelope and seal it. It is good to provide glue sticks for sealing.*
- H. The sealed envelope AB-2 (Affidavit Envelope) is then placed in the manila envelope (brown) and sealed.
- I. The voter will then hand the sealed manila envelope (brown) back to you. Find the voter's name on the posting list of persons voting absentee, and mark it received and the date in the margin.
- J. Place the ballot in the secure box in the vault.

If the voter messes up a ballot and requests another one, take back the first ballot and disable it by tearing off the corner, and place it in the Spoiled Ballot envelope. Change the ballot number on the front of the AB-2 envelope to the new ballot number. Do not throw a ballot away - all must be accounted for.

### Mailed or Commercially-Delivered Absentees

- A. Mail the absentee ballot application to voter.
- B. A voter can forward an absentee ballot application by either U.S. mail or by a commercial carrier. Upon receipt of both the completed application and a copy of the voter's photo identification, strike the voter's name from the absentee poll list (underline in red or highlight) and write in the margin - Absentee and the date. Write the ballot style number and the ballot number on the front of Envelope AB-2 (Affidavit Envelope) and write the voters name in the upper

left-hand corner of the manila envelope. Then place the ballot, the absentee voting instructions, voter identification instructions, Envelope AB-4 (Secrecy Envelope), Envelope AB-2 (Affidavit Envelope), and the manila envelope, in the large white mailing envelope, affix proper postage and mail within 24-hours of receipt of the completed application. (Note: If the voter fails to include a photo identification copy with the application prior to the eight (8<sup>th</sup>) day before the election, while no rule requires it, it is suggested to send a letter informing the voter that State law requires that an absentee ballot shall not be issued unless the required identification is submitted with an absentee ballot.) *Suggestion: The phone number of the voter is on the absentee ballot application. It is suggested to call informing the voter that State law requires that an absentee ballot shall not be issued unless required identification is submitted with an absentee ballot in addition to the letter.*

- C. Add the voter's name to the Absentee list. Note: Prior to the passage of Act 2019-507, the absentee election manager was required to post a list of all voters who applied for and voted by absentee ballot. Act 2019-507 repealed this requirement. **Instead, the list of electors voting by absentee ballot shall remain confidential** until the day following the election. The absentee elections manager will now deliver the list to the board of registrars the day following the election. At that point, the list becomes public record.
  1. Upon receipt of a completed ballot, mark received and the date on the list of persons voting absentee.
  - B. Place the ballot in the secure box in the vault.

### Provisional Absentee Ballots

- A. If the person's name is not on the voter list, or not on the voter list at the address provided on the application, and cannot be verified by the Board of Registrars, mark the word "Provisional" on the affidavit envelope (AB-2) before mailing the provisional absentee ballot (absentee ballot with the upper left hand corner either cut or torn off) and other provisional absentee materials to the applicant. (It is suggested to write "Provisional" on both sides of the envelope.)
- B. If an absentee ballot application is received on or after the eighth (8<sup>th</sup>) day before the election and it is missing the proper identification, the absentee election manager will issue the absentee ballot as a provisional ballot. Mark the word "Provisional" on the affidavit envelope (AB-2) before mailing the provisional absentee ballot (absentee ballot with the upper left-hand corner either cut or torn off remove space between the word "off" and parenthesis) and other provisional absentee materials to the applicant. Also, include a written explanation on why the ballot is provisional, how to complete the voter re-identification form. Instructions on the procedure followed by the Board of Registrars for verifying and certifying provisional votes, and that the voter must provide identification to the Board of Registrars no later than 5:00 p.m. on Friday following the election.

Sample correspondence for this procedure is provided in the Appendix.

- C. Fill out sections 1, 2, and 3 of the PB-3 Provisional Verification Statement. In section 2, put Absentee and the date and line number from the daily absentee list. With the provisional absentee ballot (see above), ballot instructions, AB-4 secrecy envelope, AB-2 affidavit envelope, mailing manila (brown) envelope and enclose a written explanation as to why the ballot is provisional, with instructions for completing the provisional form and provide to voter, as follows:
  1. Provisional absentee instructions - Form 2.
  2. PB-3 Provisional Verification Statement which includes voter re-identification form at bottom. NOTE: Voter does not fill out back of PB-3. *Suggestion: A sticky note could be placed on the back indicating voter does not fill out this side.*
  3. Instructions to Absentee voters (how to mark the ballot) from absentee supplies with list of valid voter ID types on back.
  4. Provisional absentee ballot (see above).
  5. Secrecy Envelope AB-4.
  6. Affidavit Envelope AB-2 marked "Provisional".
  7. Mailing envelope (brown). *Suggestion: Some clerks apply a label with the City's/Town's mailing address on the envelope.*

- D. Add name to Provisional Absentee posting list (pink) for the correct county.
- E. Secure the affidavit envelope AB-2 marked “Provisional” in a provisional ballot return envelope (PB-2A) and write the voter’s name on the front of the envelope.
- F. Place the PB-2A Provisional Ballot Return envelope in the Provisional Absentee Ballot box for the correct county.
- G. Place the PB-3 Provisional Verification Statement in envelope PB-4A Absentee Provisional Return envelope by correct county. (Do not seal PB-4A envelope until all PB-3 provisional verification statements are inserted, along with the provisional absentee roster) Do not place PB-4A Provisional Return envelope in the provisional ballot box.

# Practical Guidelines for Provisional Balloting

Please note that this overview is not an authoritative statement of the law, nor is it a substitute for the Code of Alabama or other legal materials. This outline, prepared by an experienced municipal clerk, seeks to serve only as a practical guide of instructions for the absentee ballot process.

Additionally, please note that the information provided here is an edited version of the information from the Secretary of State's website to better reflect changes needed for municipal elections.

## I. Provisional Ballot Instructions for Poll Workers When a Person Shows Up to Vote on Election Day:

1. Ask the person for his or her name.
2. Look on your list of registered voters to see if his or her name is on the list.
3. **If the person's name is on your list**, follow normal voting procedures.
4. **If his or her name is marked as "inactive"**,
  - a. have this person fill out a Voter's Reidentification/Update Form before letting him or her vote.
  - b. check the "update" box on the form.<sup>1</sup>
5. **If you cannot find the person's name on the registered voters list**,
  - a. inform the person that because his or her name is not on the list of registered voters, he/she will receive help from another poll official, and
  - b. take the person to the provisional ballot officer.
6. **If his or her name is marked off because he or she applied for an absentee ballot**,
  - a. take this person to the provisional ballot officer, and
  - b. tell the provisional ballot officer that the person is marked off for having applied for an absentee ballot.
7. **If the person does not provide voter identification as required by law, and cannot be identified by two election officials**,
  - a. take this person to the provisional ballot officer, and
  - b. tell the provisional ballot officer that the person did not provide voter identification.
8. **If an inspector challenges the person's right to vote in the precinct**, the inspector will take the person to the provisional ballot officer and the inspector will fill out the inspector challenge statement.

## II. Instructions for the Provisional Ballot Officer

**When a poll worker brings a person to you, do the following:**

1. Explain the provisional ballot process to the voter and to the voter's assistant, if the person has requested assistance.
2. Find out why the person was identified as a potential provisional voter. Be familiar with this list of reasons that trigger provisional voting, as follows:
  - a. The person's name is not on the voter list.
  - b. The person's name was marked off the voter list because he or she applied for an absentee ballot.

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<sup>1</sup> In 2014-1, the Alabama Supreme Court held that a regulation promulgated by the Secretary of State that allowed voters who had moved within a county to cast ballots at their old polling place if they had not updated their voter-registration information violated Section 17-9-10, Code of Alabama 1975 which voters who have moved to cast ballots at the polling place designated for their new address. See *Davis v. Bennell*, 15-1So.3d 11-1 (Ala.2014)

- c. The person did not provide voter identification, as required by law.
- d. The person's right to vote is being challenged by an inspector.
- 3. If the person's name is not found on the voter list, call the Board of Registrars to find out if the person is eligible to vote.
- 4. If the Board of Registrars confirms that the person is eligible to vote, do the following:
  - a. write the name of the Registrar who confirmed that the person can vote in your precinct, in the shaded space "verification" section on the back of the update form.
  - b. have the person fill out an update form.
  - c. make sure that the "verification" box is checked on the update form.
  - d. direct the person to a poll worker so that he or she can vote a regular ballot; and
  - e. remind the person to give the update form to the poll worker.
  - f. if you are unable to confirm that the person is eligible to vote, go to #5.
- 5. When a person's eligibility to vote cannot be verified,**
  - a. explain to the voter and the voter's assistant, if the person has requested assistance, that the person has a legal right to vote a provisional ballot.
  - b. provide the person with oral and written instructions about provisional voting.
- 6. If the person wants to vote a provisional ballot, secure the proper roster by county; and
  - a. have the voter sign or mark the provisional ballot roster.
  - b. ask the voter or the voter's assistant to fill in all the requested information.
- 7. Secure the provisional verification statement (PB-3), then**
  - a. write on the provisional verification statement the line number from the provisional ballot roster for the correct county.
  - b. write the election date, precinct number and ballot style on the provisional verification statement.
  - c. check the correct box on the provisional verification statement to mark the reason why the person is casting a provisional ballot.
  - d. After you have completed your portion of the provisional verification statement:
    - i. explain to the voter and the voter's assistant that a sworn statement must be signed by the voter.
    - ii. show the voter the sworn statement in the upper right-hand portion of the provisional verification statement.
    - iii. have the voter or the voter's assistant complete the requested information on the sworn statement.
    - iv. The voter must sign or mark the "signature line."
  - e. direct the person to fill out the voter update form at the bottom of the PB-3 if applicable. This form must be filled out completely.
  - f. Make sure the "provisional" box is checked on the form.
  - g. Place the completed PB-3 form in the provisional return envelope for the correct county.
- 8. If the person is voting a provisional ballot because of an inspector's challenge:
  - a. separate the multi-part challenge statement.
  - b. place the original statement (white copy) in the provisional ballot box.
  - c. place one copy (yellow copy) in the provisional verification envelope.
  - d. give one copy (pink copy) to the voter.
- 9. Before giving the voter a provisional ballot, cut or tear off the upper left corner of the ballot.
- 10. Give the person the provisional ballot and direct the voter to the designated voting area for provisional voters.

11. Direct the person to place the completed ballot in the provisional ballot inner envelope PB-1 and seal the envelope.
12. Direct the person to place the provisional ballot inner envelope (PB-1) into the provisional ballot return envelope (PB-2) and seal the envelope. You will need to write the person's name and roster number in the designated areas on PB-2 envelope.
13. Direct the person to place the provisional ballot return envelope (PB-2) into the provisional ballot box.

**When the polls close, do the following:**

1. Collect the provisional verification statements (PB-3 forms), the provisional ballot rosters, and any other provisional ballot forms or materials; then place them in a precinct provisional return envelope PB-4 (return envelope) by county. The precinct provisional return envelope shall be addressed to the Board of Registrars by county.
2. Before sealing the precinct envelope, count the number of provisional voters listed on the roster(s). Write, on the sealed provisional ballot box, the total number of provisional voters listed on the provisional ballot roster(s).
3. Place the provisional ballot roster(s) by county inside the precinct provisional return envelope and seal the envelope.
4. Give the municipal clerk the precinct provisional return envelope for each county.
5. Give the municipal clerk the sealed provisional ballot box for each county. Write the name of the county on the provisional return envelope PB-4 and on the provisional absentee box if more than one county.

### III. Provisional Ballot Instructions for the Board of Registrars

The following information regarding the procedure followed by the Board is provided for informational purposes. Municipal officials (other than clerk in delivering and receiving the provision ballots from the Board) are not directly involved in the actions of the Board of Registrars.

NOTE: In municipal elections, the Board of Registrars must perform an additional duty that is not necessary in other elections: When verifying a provisional ballot that was cast because the individual's name does not appear on the official list of eligible voters for the polling place in which the individual seeks to vote, the board of registrars must verify that the voter is registered to vote at an address located within the municipal corporate limits or district within which he or she seeks to vote, rather than that the voter is just registered in the county.

Municipalities will have to cooperate with the Board to accomplish this.

#### FOR MUNICIPALITIES LOCATED IN MULTIPLE COUNTIES

For municipalities located in more than one county, provisional ballots must be accounted for and returned separately to the proper county for verification. If you are located in more than one county, make sure you work with your election supplier to additional envelopes and supplies to cover multiple counties.

**Each Registrar shall do the following on Election Day:**

1. Be in the office when the polls open at 7:00 A.M. to receive calls from election officials. Remain in the office until 7:00 P.M. and do not close the office on Election Day.
2. Only Registrars should answer questions from polling officials.
3. When the provisional ballot officer calls:
  - a. look up the person's name on the statewide voters list.
  - b. check other records (such as update forms and registration applications on file).
  - c. determine if the person is registered to vote.
  - d. write down the telephone number of the provisional ballot officer because you might need to call the provisional ballot officer back with the requested information.
4. **If the person's name is found,** verify the voter's registration to the provisional ballot officer and state the precinct in which the voter is registered. Accuracy is important! The provisional ballot officer will have to write your name on the update form.
5. If the person's name is not found, report that finding to the provisional ballot officer.

**The municipal clerk will deliver the precinct provisional return envelopes to your office no later than noon on the day following the election. You may also receive provisional verification envelopes from the Absentee Election Manager.**

**During the week after the election, each Registrar shall do the following:**

1. Upon receiving the materials from each precinct, the registrar must tally the total number of provisional verification statements (PB-3).
2. If the roster list matches the number of provisional verification statements within the precinct provisional return envelope, the registrar must begin updating the statewide voters list with the information from the update forms. Go to #5.
3. If the roster list does not match the number of provisional verification statements PB-3 within the precinct provisional return envelope (PB-4), the registrar must notify the municipal clerk and request assistance in resolving the difference.
4. The clerk and each member of the County Board of Registrars shall sign a written statement if the two are unable to resolve the difference. This statement must be included in the container holding the records of election.
5. The day after the election, the registrar must examine the provisional verification envelopes, and
  - a. identify the envelopes that were completed as a result of the provisional ballot being cast due to challenge statement from the inspector; and
  - b. mail a written notice statement to each inspector-challenged provisional voter and give the provisional voter the opportunity to respond.
6. Look at each provisional verification statement. Use the re-identification/update portion of the PB-3 in the verification process. Some verification statements may have challenge statements from inspectors.
7. Use reasonable efforts to determine whether or not each provisional ballot should be counted. The registrar should use the space on the back of the provisional verification statement to make notations. Written documentation is very important.
8. Make a final determination whether a ballot should or should not be counted. The finding must be written plainly on the provisional verification statement and all 3 registrars should sign in the designated "middle" area.
9. Deliver the findings to the municipal clerk no later than noon seven days after the election.
10. Prior to this delivery, all findings must remain confidential.
11. While entering the voter histories into the statewide voters list; enter the names of the voters who cast provisional ballots, whether the ballot was or was not counted, and the reason each was or was not counted.
12. The findings as to whether the provisional ballot was or was not counted shall be made available to a requesting voter. The identity of the voter should be confirmed before releasing such information.

#### **IV. Instructions for the Absentee Election Manager**

**Prior to Election Day, the Absentee Election Manager shall do the following:**

1. Review the absentee ballot application and determine the applicant's name<sup>2</sup> and determine that a valid ID is included with application.<sup>3</sup>
2. Look on your list of registered voters to see the voter's name is on the list at the address provided on the application.
3. If the person's name is on your list at the address provided on the application, and voter ID is enclosed, follow normal procedures for issuing an absentee ballot.

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<sup>2</sup> Act 2014-006 amended section 17-11-5(c) Code of Alabama 1975 so that applications for absentee ballots are required for elections which are more than 42 days apart. As a result, individuals can apply for absentee ballots for a municipal general election and a municipal runoff election with a single application as long as the runoff election is no more than 42 days after the general election.

<sup>3</sup> Act 2019-507 amended Section 17-10-1. Code of Alabama 1975 so that an absentee ballot shall not be issued unless the required identification is submitted with the absentee ballot application. Act 2019-507 amended Section 17-9-30. Code of Alabama 1975 so that if an absentee ballot application is received on or after the eighth (8th) prior to the election without a copy of a valid form of identification, the absentee election manager shall issue an absentee ballot as a provisional ballot.

4. **If you cannot find the person's name on the list at the address provided on the application, or voter ID is not included with the application,** mark the word "Provisional" on the affidavit envelope ("second envelope") before providing the provisional ballot, with corner torn off or cut off, and other provisional materials to the applicant.
5. With the absentee ballot, enclose a written explanation as to why the ballot is a provisional ballot, with instructions for completing the provisional ballot and other provisional forms including<sup>4</sup>,
  - a. Instructions for how the voter should complete the voter re-identification form and sworn statement.
  - b. Instructions for submitting voter identification with the ballot or to the Board of Registrars.
  - c. A description of the procedure followed by the board of registrars in verifying and certifying provisional ballots.
  - d. A voter re-identification form (Bottom of PB-3).
  - e. The sworn statement of the provisional voter (Top right of PB-3) Note: These two items are now on one form PB-3. Prior to that it was two forms (actually a form and a sworn Statement on an envelope).
  - f. A written explanation of how the voter can find out whether or not the ballot was counted and, if not counted, why it was not counted.
6. When a provisional absentee ballot and related materials are returned by the voter:
  - a. Remove the Affidavit Envelope AB-2 containing the security envelope and the ballot from the brown mailing envelope, and determine the proper county if municipality is in more than one county. Mark the ballot as received on the provisional ballot roster.
  - b. Place the affidavit envelope AB-2 in the provisional ballot return envelope PB-2A and write the voter's name on the front. Place the PB-2A envelope in the provisional absentee ballot box (by county).
  - c. Place the PB-3 Provisional Verification Statements forms and/or voter ID in the PB-4A envelope (by county).
  - d. Only the PB-4A envelope is taken to the Board of Registrars. The voter's update form and/or voter ID should be in the PB-4A envelope, so the Board of Registrars has it to confirm whether to count the vote.
  - e. The provisional absentee ballot box (by county) is retained at City/Town Hall and does not go to the Board of Registrars.

**On Election Day, the Absentee Election Manager shall do the following:**

1. Deliver the provisional absentee ballots box(s), absentee provisional return envelopes, and the regular absentee ballots to the election officials responsible for counting the absentee ballots.

**NOTE:** Absentee poll officials should be instructed that they **will not** count provisional absentee ballots. The only reason the provisional absentee box and PB-4A envelope is given to them, is so additional absentee ballots that become provisional (such as an inspector's challenge) may be added to the provisional absentee ballot box and to the PB-4A envelope, and so these materials will be "closed out" as prescribed after the polls close.

2. If an absentee voter is challenged by an inspector or clerk, the absentee election manager will:
  - a. Receive copies of the 3-part challenge form.
    - i. The original white copy goes into the provisional ballot box.
    - ii. The second yellow copy is attached to the PB-3 and goes into the PB-4 envelope.
    - iii. The third pink copy is normally given to the voter, according to the Provisional Ballot Manual from the SOS. Since this is an absentee ballot, the voter is not present.
    - iv. Instead, it is recommended that absentee poll workers give the pink copy to the Municipal Clerk/Absentee Election Manager so they can do this notification.
  - b. Send by first class mail, to the voter at the mailing address provided on the provisional voter's application for an absentee ballot:
    - i. one copy of the challenge statement of the inspector, and

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<sup>4</sup> Forms for this may be provided by your election supplier.

- ii. a written explanation of the procedure used by the Board of Registrars in verifying and certifying provisional ballots; and
- iii. an address and telephone number by which the provisional voter may respond; and
- iv. a written explanation of how the voter can find out whether or not the ballot was counted and, if not counted, why it was not counted.

#### **V. Recommendations for the Municipal Clerk**

---

##### **On Election Day, the Municipal Clerk shall do the following:**

1. Be available during the day to take calls from poll workers to verify the eligibility of persons to vote at polling places.
2. Instruct the Chief Inspector from each polling site to return all polling materials to the Clerk and the Clerk shall deliver the precinct verification envelopes to the Board of Registrars by noon on the following day.
3. Secure the boxes, including the sealed provisional ballot box, until the day of canvassing.

##### **On the seventh day after Election Day:**

1. At noon, meet with the municipal governing body to canvas the election results, including the provisional ballots.
2. Review each provisional ballot and the findings of the Board of Registrars as to whether each ballot should be counted.
3. Count the ballots.
4. Post the results of the provisional precinct in the City/Town hall.

**NOTE: The League urges municipal clerks, or another municipal official to inform the local Board of Registrars that in municipal elections, the Board of Registrars must perform an additional duty that is not necessary in other elections: When verifying a provisional ballot that was cast because the individual's name does not appear on the official list of eligible voters for the polling place in which the individual seeks to vote, the Board of Registrars must verify that the voter is registered to vote at an address located within the municipal corporate limits or district within which he or she seeks to vote rather than that the voter is just registered in the county.**

**Municipalities will have to cooperate with the Board to accomplish this.**

Please see below a visual aid from the Secretary of State’s Provisional Ballot Manual. The PB-3 replaced what was formerly an update form and an envelope providing the reason the vote was provisional and the voter’s verification (signature). Now, the verification is at the top of the PB-3 and includes the voter update form at the bottom. All of these forms are inserted into the PB-4 envelope at the polls or the PB-4A envelope for absentees. The PB-4 and PB-4A envelopes are taken to the Board of Registrars so that they can determine which votes will count and which will not. The actual ballots remain at City/Town Hall for the Council canvass.

**PROVISIONAL VERIFICATION STATEMENT - PB-3**

**1 MUST BE COMPLETED BY ELECTION OFFICIAL AT PRECINCT**

Name of Election: \_\_\_\_\_  
Election Date: \_\_\_\_\_  
Precinct Number: \_\_\_\_\_  
Ballot Style: \_\_\_\_\_

**2 LINE NUMBER FROM ROSTER**

**3 REASON FOR PROVISIONAL BALLOT**  
MUST BE COMPLETED BY POLL WORKER AT PRECINCT  
MARK ALL REASONS THAT APPLY

☐ Person's name does not appear on the list of registered voters.  
☐ Person's registration status cannot be determined by the provisional ballot officer.  
☐ Voter is unable to comply with voter identification requirement.  
☐ The voter has requested but claims to have not voted an absentee ballot.  
☐ Voter objects to the political party identified on the list of registered voters for the primary runoff election.  
☐ Inspector has knowledge that the person is not entitled to vote at the precinct and challenges the person.  
☐ Ballot is cast after the legal time for closing the polls due to a federal or state court order extending the hours of the polls.

**4 SWORN AFFIRMATION OF PROVISIONAL VOTER**  
MUST BE COMPLETED BY VOTER

State of Alabama, County of \_\_\_\_\_

I do solemnly swear (or affirm) that I am a registered voter in the precinct in which I am seeking to vote and that I am eligible to vote in this election.

Printed Name of Voter: \_\_\_\_\_  
Printed Residence Address of Voter: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_  
Date of Birth (month/day/year): \_\_\_\_\_ Signature or Mark: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Date (month / day / year): \_\_\_\_\_

**Procedure for Precinct Official**

1. Instruct voter to sign the Provisional Roster.
2. In Box 1, print the name of election, date of election, the precinct number and ballot style.
3. In Box 2 and on the PB-2 envelope, print the line number as it appears beside the signature of the voter on the Provisional Roster.
4. In Box 3, check the reason the voter is casting a provisional ballot.
5. Instruct the voter to complete Box 4, the "Sworn Statement of Provisional Voter".
6. Instruct the voter to complete the "Voter's Reidentification/Update Form" below.
7. In the case of an Inspector's Challenge, attach yellow copy of "Inspector's Statement of Challenge of Eligibility to Vote".
8. Issue the voter a provisional ballot, secrecy envelope (PB-1) and outer envelope (PB-2).
9. Instruct the voter to place the marked ballot inside the PB-1 envelope and then insert the PB-1 envelope into the PB-2 envelope.
10. Instruct the voter to place the PB-2 envelope into the sealed provisional ballot box.
11. Once completed, place this form PB-3 in the PB-4 envelope. In the case of an Inspector's Challenge, include the "Inspector's Statement of Challenge of Eligibility to Vote".

**VOTER'S REIDENTIFICATION/UPDATE FORM**  
FOR USE WITH A PROVISIONAL BALLOT  
FOR USE BY U.S. CITIZENS ONLY • FILL IN ALL BOXES ON THIS FORM • PLEASE USE INK • PRINT LEGIBLY

**1** Are you a citizen of the United States of America? ☐ Yes ☐ No **ATTENTION!** If you answer "No" to either of these questions, do not complete this application.

**2** Will you be 18 years of age on or before election day? ☐ Yes ☐ No

**3** Print Your Name: \_\_\_\_\_  
Last First Middle Initial

**4** Print Maiden Name / Former Name (if reporting a change of name) \_\_\_\_\_  
Last First Middle Initial

**5** Date of Birth (month/year) \_\_\_\_\_  
Primary Telephone ( ) \_\_\_\_\_  
Email Address \_\_\_\_\_

**6** Address where you live: \_\_\_\_\_  
(Do not use post office box)  
Mailing Address, if different from home address: \_\_\_\_\_  
City State ZIP

**7** Address where you receive your mail: \_\_\_\_\_  
City State ZIP

**8** Address where you were last registered to vote: \_\_\_\_\_  
(Do not use post office box)  
Former Address: \_\_\_\_\_  
City County State ZIP

**9** Race (check one)  
☐ White ☐ Black ☐ Asian ☐ American Indian ☐ Hispanic ☐ Other

**10** Sex (check one)  
☐ Female ☐ Male

**11** Place of Birth: \_\_\_\_\_  
City County State

**VOTER DECLARATION - READ AND SIGN**  
I SOLEMNLY SWEAR OR AFFIRM TO SUPPORT AND DEFEND THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF ALABAMA AND FURTHER DISAVOW ANY BELIEF OR AFFILIATION WITH ANY GROUP WHICH ADVOCATES THE OVERTHROW OF THE GOVERNMENTS OF THE UNITED STATES OR THE STATE OF ALABAMA BY UNLAWFUL MEANS AND THAT THE INFORMATION CONTAINED HEREIN IS TRUE, SO HELP ME GOD.

**WARNING!** If you falsely sign this statement, you can be convicted and imprisoned for up to five years.

Your Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**PRECINCT PROVISIONAL RETURN ENVELOPE**

Place in This Envelope After Polls Close

**1. ALL ROSTERS OF PROVISIONAL VOTERS**

**2. ALL PROVISIONAL VERIFICATION STATEMENTS (PB-3)**

**Return This Envelope to:**  
**Sheriff/Board of Registrars**

**DO NOT** Put in Record of Election Container

**PB-4**

[illegible]

# APPENDIX II

## Sample Forms, Ordinances and Resolutions

- **Salary Ordinance Checklist for Mayors and Councilmembers  
(and Alternatives A, B and C)**
- **Sample Ordinance Numbering Council Places**
- **Sample Ordinance Setting Qualification Fees**
- **Sample Affidavit of Indigency**
- **Sample Written Statement From Mayor to Council Notifying Council  
That Only One Person Filed a Statement of Candidacy for a Particular Office**
- **Sample Resolution for Each Officer Elected Without Opposition**
- **Sample Resolution Appointing Election Officers  
(Paper Ballot Polls)**
- **Sample Resolution Appointing Election Officers  
(Electronic Vote Counting Systems)**
- **Sample Ordinance Establishing Procedure for the Appointment of Additional  
Election Officers for Absentee Ballots in Municipalities Under 10,000 population**
- **Sample Notice of Appointment of Election Officers**
- **Sample Resolution Establishing the Use of Electronic Vote Counting Devices**
- **Sample Resolution for Canvassing Election Results**
- **Sample Certificate of Election**
- **Sample Oath of Office**
- **Sample Ordinance to Hire Mayor as Utility Superintendent**

**Note:** Any forms mentioned and included in this publication are intended solely as examples and not as a substitute for obtaining individualized legal advice. Use of these forms is at the sole risk of the user. The Alabama League of Municipalities and its staff disclaim any responsibility or liability which may arise or result from the use of these forms or any portion thereof.

# Salary Ordinance Checklist for Mayors and Councilmembers

At least six months prior to the election, the council can set the salary for the Mayor and Councilmembers. In addition to the basic salary, if the council wishes to provide additional benefits or salary increases, this list provides additional language which may be incorporated into the basic salary ordinance.

☐

**Basic salary ordinance:**

*Select one of the three sample ordinances provided to use as a basic salary ordinance.*

☐

**Additional Benefits – If additional benefits are to be provided in addition to basic salary, insert the following language into the basic sample ordinance:**

*Section \_\_\_\_.* In addition to the salary provided for herein, the mayor [or the mayor and councilmembers] shall also be entitled to any benefits normally accruing to all full-time employees of the city as authorized by law.

☐

**Credit for Certified Municipal Officer (CMO) Training: If additional compensation will be provided in addition to basic salary for becoming a “Certified Municipal Official”, insert the following language into the basic sample ordinance:**

*Section \_\_\_\_.* In addition to the salary provided for herein, the mayor [or the mayor and councilmembers] shall be entitled to additional compensation as provided below for the attendance and completion of Certified Municipal Official training established by the Alabama League of Municipalities:

*A. Upon completion of the prescribed courses by the Alabama League of Municipalities resulting in the awarding of the designation of “Certified Municipal Official”, the mayor and any councilmember shall receive an additional \$\_\_\_\_\_ per month [or \$\_\_\_\_\_ annually to be paid in the same manner as any other compensation] **for each certification level.***

*B. Upon presentation of proof of the awarding of the designation of “Certified Municipal Official”, at any certification level, the mayor or councilmember’s salary shall be increased as provided herein beginning the next pay period after being awarded the designation.*

☐

**Cost of living raises: If cost of living raises are to be provided in addition to basic salary, insert the following language into the basic sample ordinance:**

*Section \_\_\_\_.* In addition to the salary provided for herein, the mayor [or the mayor and councilmembers] shall also be entitled to any cost of living raises granted to all full-time employees of the city.

[SALARY ORDINANCE - ALTERNATIVE A]

**Sample Ordinance Establishing the Monthly  
Salary of the Mayor and Councilmembers**

AN ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF \_\_\_\_\_, ALABAMA AS FOLLOWS:

**Section 1.** That the salary of the mayor of the City of \_\_\_\_\_, Alabama, shall be and the same is hereby fixed at the sum of \$\_\_\_\_\_ per month.

**Section 2.** That each councilmember shall be compensated at the sum of \$\_\_\_\_\_ per meeting attended not to exceed \$\_\_\_\_\_ per month.

***OPTIONAL LANGUAGE – IF THE COUNCIL DECIDES TO PROVIDE FOR ANY ADDITIONAL BENEFITS FROM THE SUGGESTED OPTIONS ON THE SALARY ORDINANCE CHECKLIST, THEN THESE ADDITIONAL SECTION(S) SHOULD BE PLACED IN THE ORDINANCE AT THIS POINT AND THE SUBSEQUENT SECTIONS RENUMBERED ACCORDINGLY.***

**Section 3.** This ordinance shall become effective on the first Monday in November, 20\_\_\_\_, and shall continue in force and effect until repealed by action of the council.

**Section 4.** The provisions of this ordinance are hereby declared severable; if any portion of this ordinance shall be held unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not affect the remaining portions of this ordinance.

ADOPTED AND APPROVED THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
City Clerk

## [SALARY ORDINANCE - ALTERNATIVE B]

# Sample Ordinance Establishing the Salary of the Mayor and Councilmembers to be Paid Twice Monthly

## AN ORDINANCE

BE IT ORDAINED BY THE CITY [TOWN] COUNCIL OF THE CITY [TOWN] OF \_\_\_\_\_, ALABAMA, AS FOLLOWS:

**Section 1.** That the salary of the mayor of the City [Town] of \_\_\_\_\_, Alabama shall be and the same is hereby fixed at \$\_\_\_\_\_ annually to be paid in 24 equal installments on the first and fifteenth days of each month.

**Section 2.** That each councilmember shall be compensated at the sum of \$\_\_\_\_\_ per meeting attended not to exceed \$\_\_\_\_\_ annually to be paid in 24 installments on the first and fifteenth days of each month.

***OPTIONAL LANGUAGE – IF THE COUNCIL DECIDES TO PROVIDE FOR ANY ADDITIONAL BENEFITS FROM THE SUGGESTED OPTIONS ON THE SALARY ORDINANCE CHECKLIST, THEN THESE ADDITIONAL SECTION(S) SHOULD BE PLACED IN THE ORDINANCE AT THIS POINT AND THE SUBSEQUENT SECTIONS RENUMBERED ACCORDINGLY.***

**Section 3.** This ordinance shall become effective on the first Monday in November, 20\_\_\_\_, and shall continue in force and effect until repealed by action of the council.

**Section 4.** The provisions of this ordinance are hereby declared severable; if any portion of this ordinance shall be held unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not affect the remaining portions of this ordinance.

ADOPTED AND APPROVED THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
City [Town] Clerk

## [SALARY ORDINANCE - ALTERNATIVE C]

### SAMPLE ORDINANCE

#### AN ORDINANCE

BE IT ORDAINED BY THE CITY [TOWN] COUNCIL OF THE CITY [TOWN] OF \_\_\_\_\_, ALABAMA, AS FOLLOWS:

**Section 1.** That the salary of the mayor of the City [Town] of \_\_\_\_\_, Alabama shall be and the same is hereby fixed at the sum of \$\_\_\_\_\_ per month and will be paid in equal installments per regular council meeting attended.

**Section 2.** That each councilmember shall be compensated at the sum of \$\_\_\_\_\_ per month and will be paid in equal installments per regular council meeting attended.

***OPTIONAL LANGUAGE – IF THE COUNCIL DECIDES TO PROVIDE FOR ANY ADDITIONAL BENEFITS FROM THE SUGGESTED OPTIONS ON THE SALARY ORDINANCE CHECKLIST, THEN THESE ADDITIONAL SECTION(S) SHOULD BE PLACED IN THE ORDINANCE AT THIS POINT AND THE SUBSEQUENT SECTIONS RENUMBERED ACCORDINGLY.***

**Section 3.** There will be no compensation for the mayor or councilmembers for attending special called meetings.

**Section 4.** This ordinance shall become effective on the first Monday in November, 20\_\_\_\_, and shall continue in force and effect until repealed by action of the council.

**Section 5.** The provisions of this ordinance are hereby declared severable; if any portion of this ordinance shall be held unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not affect the remaining portions of this ordinance.

ADOPTED AND APPROVED THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
City [Town] Clerk

## Sample Ordinance Numbering Council Places

AN ORDINANCE

BE IT ORDAINED BY THE CITY [TOWN] COUNCIL OF \_\_\_\_\_, ALABAMA, AS FOLLOWS:

**Section 1.** That the City [Town] governing body of the City [Town] of \_\_\_\_\_, Alabama, shall consist of a mayor and five councilmembers who shall be elected by a vote of the voters at large in the City [Town] of \_\_\_\_\_, Alabama.

**Section 2.** That the places on the City [Town] Council be and the same are hereby designated as Place Number 1, Place Number 2, Place Number 3, Place Number 4 and Place Number 5.

**Section 3.** That each candidate for a place on the City [Town] Council shall in the announcement of his or her candidacy designate by number the place for which he or she is a candidate and no person shall be a candidate for more than one place.

**Section 4.** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

ADOPTED AND APPROVED ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
City [Town] Clerk

## Sample Ordinance Setting Qualification Fees

AN ORDINANCE

BE IT ORDAINED BY THE CITY [TOWN] COUNCIL OF \_\_\_\_\_, ALABAMA, AS FOLLOWS:

**Section 1.** A qualification fee in the amount of \$\_\_\_\_\_ [not less than \$10 nor more than \$50] is hereby fixed and imposed upon all candidates seeking election as mayor of the City [Town] of \_\_\_\_\_, Alabama, except as hereinafter provided for.

**Section 2.** A qualification fee in the amount of \$\_\_\_\_\_ [not less than \$10 nor more than \$50] is hereby fixed and imposed upon all candidates seeking election as councilmember of the City [Town] of \_\_\_\_\_, Alabama, except as hereinafter provided for.

**Section 3.** Such qualification fee shall be paid to the city clerk and deposited to the general fund of the city at or prior to the time of taking out qualification papers by any such candidates.

**Section 4.** Any person desiring to qualify who is not financially able to pay the required fee may qualify provided such prospective candidate furnishes the clerk with an affidavit stating that he is financially unable to pay the required fee fixed by this ordinance.\*

**Section 5.** This ordinance is adopted pursuant to Section 11-46-2 of the Alabama Code of 1975 and shall be effective in all elections, both general and special, for aforesaid offices from and after the date of adoption.

ADOPTED THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
City [Town] Clerk

*\*Use the Sample Affidavit of Indigency*

## Sample Affidavit of Indigency

STATE OF ALABAMA

\_\_\_\_\_ COUNTY

CITY [TOWN] OF \_\_\_\_\_

I, the undersigned, being first duly sworn depose and say that I am a citizen of the City [Town] of \_\_\_\_\_ in said County, and reside at \_\_\_\_\_ in said City [Town]; that I desire to become a candidate for the office of \_\_\_\_\_ in said City [Town] for the term of four years at the election of such office to be held on \_\_\_\_\_ and at a runoff election, if necessary, to be held on \_\_\_\_\_; that I am duly qualified to hold such office if elected thereto; that I am indigent and financially unable to pay the qualifying fee established to become a candidate for such office and hereby request a waiver of this fee pursuant to ordinance of the City [Town] of \_\_\_\_\_, and I hereby request that my name be printed upon the official ballot at said election.

\_\_\_\_\_  
(Signed)

Subscribed and sworn to before me

said \_\_\_\_\_ on this

\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Style of Officer

## Sample Written Statement From Mayor to Council Notifying Council That Only One Person Filed a Statement of Candidacy for a Particular Office

STATE OF ALABAMA

\_\_\_\_\_ COUNTY

To the Council of \_\_\_\_\_, Alabama

This is to certify that only one person filed a statement of candidacy for the office of \_\_\_\_\_ by 5:00 p.m. on the third Tuesday in July preceding the \_\_\_\_ day of August, 20\_\_\_\_, the date set for an election of municipal officers in the City [Town] of \_\_\_\_\_, Alabama, and the name of such person is \_\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City [Town] Clerk

## Sample Resolution for Each Officer Elected Without Opposition

STATE OF ALABAMA

\_\_\_\_\_ COUNTY

CITY OF \_\_\_\_\_

### RESOLUTION

WHEREAS, Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended, provide for and regulate general and special elections in cities and towns of this state, except those cities and towns which have a commission form of government, and

WHEREAS, Section 11-46-43 of the Alabama Code of 1975 prohibits write-in candidates in elections held under Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended, and

WHEREAS, Section 11-46-26 of the Alabama Code of 1975, as amended, provides that if only one person has filed a statement of candidacy or has been nominated for an office for an election to be held pursuant to Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended, at the time the deadline for qualification has passed, then such person shall, for all purposes, be deemed elected to such office, and the mayor or other chief executive officer shall not cause the name of such person or the office for which his candidacy was declared to be printed on the ballot, but he shall immediately file a written statement with the governing body of the municipality, attested by the clerk, certifying the fact that only one person filed a statement of candidacy or was nominated for the office preceding the deadline set for an election of municipal officers of the municipality and setting forth the name of such person, and

WHEREAS, said Section 11-46-26, as amended, provides that the governing body of the municipality, after receiving such statement, shall adopt a resolution declaring the person named in the statement duly elected to the office described in the statement, and shall issue a Certificate of Election to such person, and

WHEREAS, the Mayor of the City [Town] of \_\_\_\_\_ has filed a written statement with the governing body of the municipality, attested by the Clerk, certifying the fact that only one person filed a statement of candidacy for the office of \_\_\_\_\_ prior to the deadline and that the name of that person who filed such statement was \_\_\_\_\_,

NOW, THEREFORE, BE IT RESOLVED by the City [Town] Council of the City [Town] of \_\_\_\_\_ that \_\_\_\_\_ be and he is hereby declared duly elected to the office of \_\_\_\_\_ in the City [Town] of \_\_\_\_\_ for the term of office commencing on the first Monday in November, 20\_\_, and

*continued next page*

BE IT FURTHER RESOLVED, that the Mayor of the City [Town] of \_\_\_\_\_ be and he hereby is directed to issue a certificate of election to \_\_\_\_\_ for the office of \_\_\_\_\_ for such term pursuant to the provisions of Section 11-46-25, as amended.

ADOPTED THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
City [Town] Clerk

***NOTE: A separate resolution should be adopted for each officer of the city or town who is elected without opposition. A separate certificate of election should also be adopted.***

# Sample Resolution Appointing Election Officers (Paper Ballot Polls)

## RESOLUTION

WHEREAS, a regular municipal election has been called to be held on the \_\_\_\_ day of August, 20\_\_, and a runoff election, to be held if necessary, on the \_\_\_\_ day of October, 20\_\_, and

WHEREAS, Section 11-46-27 of the Alabama Code of 1975, as amended, provides, in part, that the municipal governing body, not less than 15 days before the holding of any municipal election, appoint from the qualified electors of the municipality, officers to hold the election as follows: where paper ballots are used, one returning officer for each ward and three inspectors and two clerks for each box at each voting place.

NOW, THEREFORE, BE IT RESOLVED by the City [Town] Council of the City [Town] of \_\_\_\_\_, Alabama, that the election officers for said election shall be as follows:

### WARD OR VOTING DISTRICT 1

Returning Officer  
Inspectors Box No. 1

Clerks Box No. 1

Inspectors Box No. 2

Clerks Box No. 2

### WARD OR VOTING DISTRICT 2

Returning Officer  
Inspectors Box No. 1

Clerks Box No. 2

\_\_\_\_\_  
Mayor

ATTEST:

(NOTE: If the municipality of under 10,000 pop. has adopted an ordinance 6 months prior to the election providing for the appointment of additional election officers to receive, count, and return absentee ballots – *see sample Ordinance Establishing Procedure for the Appointment of Additional Election Officers for Absentee Ballots* -- then these officials should be included in this resolution. Note also that one of the additionally appointed officers shall be named as the inspector.)

## Sample Resolution Appointing Election Officers (Electronic Vote Counting Systems)

### RESOLUTION

WHEREAS, a regular municipal election has been called to be held on the \_\_\_\_ day of August, 20\_\_, and a runoff election to be held, if necessary, on the \_\_\_\_ day of October, 20\_\_, and

WHEREAS, Section 11-46-27 of the Alabama Code of 1975, and regulations adopted pursuant thereto provide, in part, that the municipal governing body, not less than 15 days before the holding of any municipal election, appoint from the municipality, officers to hold the election as follows: where electronic ballot counters are used, at least one inspector and three clerks,

NOW, THEREFORE, BE IT RESOLVED by the City [Town] Council of \_\_\_\_\_, Alabama, that the election officers for said election shall be as follows:

Inspector \_\_\_\_\_

Registration List Clerk \_\_\_\_\_

Poll List Clerk \_\_\_\_\_

Ballot Clerk \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City [Town] Clerk

**(NOTE: The municipality may employ additional poll officials to serve at any precinct and at a central ballot counter or memory pack tabulator where these are used. These officials should be included in this resolution.)**

**(NOTE: If the municipality of under 10,000 pop. has adopted an ordinance 6 months prior to the election providing for the appointment of additional election officers to receive, count, and return absentee ballots – *see sample Ordinance Establishing Procedure for the Appointment of Additional Election Officers for Absentee Ballots* -- then these officials should be included in this resolution. Note also that one of the additionally appointed officers shall be named as the inspector.)**

# Sample Ordinance Establishing Procedure for the Appointment of Additional Election Officers for Absentee Ballots in Municipalities Under 10,000 population

## AN ORDINANCE

BE IT ORDAINED BY THE CITY [TOWN] COUNCIL OF \_\_\_\_\_, ALABAMA, AS FOLLOWS:

**Section 1.** At the time all other election officials are appointed pursuant to law, there shall be appointed three\* additional election officials who shall meet on the day of the election at the place and hour as provided for all election officials for the purpose of receiving, counting, and returning the absentee ballots cast in the election.

**Section 2.** The absentee election officials appointed pursuant to this ordinance shall be in addition to other election officials required by law and shall be appointed in the same manner as other election officials.

**Section 3.** When the absentee election officials are appointed pursuant to this ordinance, one of them shall be designated as the inspector.

**Section 4.** This ordinance shall remain in effect until repealed by a subsequent ordinance adopted at least six months prior to an election.

**Section 5.** This ordinance is adopted pursuant to Section 11-46-27 of the Alabama Code of 1975 and shall be effective in all elections, both general and special, for aforesaid offices from and after the date of adoption.

ADOPTED THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
City [Town] Clerk

*\* Section 11-46-27 of the Code of Alabama 1975 requires a minimum of three absentee election officials with one being designated as inspector. A city may appoint more than three if needed.*

# Sample Notice of Appointment of Election Officers

NOTICE OF APPOINTMENT OF ELECTION OFFICERS

Notice is hereby given that the following persons have been appointed by the City [Town] Council of \_\_\_\_\_, Alabama, to serve as election officers at the regular municipal election to be held on August \_\_\_, 20\_\_\_, and at a runoff election, if necessary to be held on September \_\_\_, 20\_\_\_.

[SET OUT OFFICERS IN SAME MANNER AS IN RESOLUTION OF APPOINTMENT]

Adopted this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City [Town] Clerk

# Sample Resolution Establishing the Use of Electronic Vote Counting Devices

STATE OF ALABAMA

\_\_\_\_\_ COUNTY

CITY OF \_\_\_\_\_

## RESOLUTION

WHEREAS, Chapter 7 of Title 17 of the Alabama Code of 1975, and the regulations adopted pursuant thereto by the Alabama Electronic Voting Committee, provide for the use of Electronic Vote Counting Systems; and

WHEREAS, Section 17-7-21 of the Code of Alabama 1975 provides that a municipality may, in its discretion, by adoption of an appropriate resolution, authorize, adopt, and direct the use of electronic vote counting systems for use in all elections held in such municipality;

NOW, THEREFORE, BE IT RESOLVED by the City [Town] Council of the City [Town] of \_\_\_\_\_ that for all elections held subsequent to the passage of this resolution, the use of \_\_\_\_\_ (insert type of electronic vote counting system) \_\_\_\_\_, a system which complies with Section 17-7-21 of the Code of Alabama and any regulations adopted pursuant thereto, is hereby authorized for the reporting, counting, and tabulating of any and all election results.

BE IT FURTHER RESOLVED, that the Mayor of the City [Town] of \_\_\_\_\_ is hereby directed to file a copy of this resolution with the Secretary of State as provided in Section 17-7-21 of the Code of Alabama 1975.

ADOPTED THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
City [Town] Clerk

# Sample Resolution for Canvassing Election Results

RESOLUTION

WHEREAS, the general election for the City [Town] of \_\_\_\_\_ was duly and legally held on \_\_\_\_\_, as provided by law, and  
WHEREAS, the municipal governing body of the City [Town] of \_\_\_\_\_ met on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, all members thereof being present [or a quorum thereof being present], at \_\_\_\_ o'clock a.m., and has canvassed the returns, and has ascertained and determined the number of votes received by each candidate, and  
WHEREAS, the said municipal governing body has ascertained and determined the result of said election as follows:

**NAME OF CANDIDATE**  
**BOX OR MACHINE NUMBER**  
**TOTAL VOTE**

(This is done for each Council place)

NOW, THEREFORE, BE IT RESOLVED by the City [Town] Council of the City [Town] of \_\_\_\_\_, Alabama, as follows:

- 1. That \_\_\_\_\_ received a majority of the votes cast for the office of Mayor and is hereby declared duly elected to that office for the term beginning on the first Monday in November, 20\_\_\_\_.
- 2. That \_\_\_\_\_ received a majority of the votes cast for the office of Alderman [Councilmember] **Place No. 1** and is hereby declared duly elected to that office for the term beginning on the first Monday in November, 20\_\_\_\_.

[Repeated for each council place.]

- 3. That no candidate received a majority of the votes cast for the office of \_\_\_\_\_ [Place No. \_\_\_\_], and that \_\_\_\_\_ and \_\_\_\_\_ received the most and second most votes cast for that office, therefore, a runoff election between said candidates is hereby ordered to be held on Tuesday, \_\_\_\_\_ [month/day], 20\_\_\_\_, pursuant to the requirements of Section 11-46-20 et seq., of the Alabama Code of 1975, as amended.

[The declaration of results is continued for each office in this manner.]

ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

[It is customary for each member of the council to sign the resolution of canvass. However, there is no legal requirement to that effect as long as the minutes show the roll call vote upon adoption.]

# Sample Certificate of Election

STATE OF ALABAMA

\_\_\_\_\_ COUNTY

CITY [TOWN] OF \_\_\_\_\_

The undersigned hereby certify that the official canvass of the votes cast in the general municipal election held in the City [Town] of \_\_\_\_\_, Alabama, on \_\_\_\_\_, shows that \_\_\_\_\_ was duly elected to the office of \_\_\_\_\_ of the City [Town] of \_\_\_\_\_, Alabama, for the term commencing on the first Monday of November, 20\_\_.

Adopted pursuant to the requirements of Sections 11-46-20 et seq. of the Alabama Code of 1975, as amended, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Signed)

\_\_\_\_\_  
Mayor [where mayor is member of council]

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

# Sample Oath of Office

STATE OF ALABAMA

\_\_\_\_\_ COUNTY

CITY [TOWN] OF \_\_\_\_\_

I, \_\_\_\_\_ solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States and the Constitution of the State of Alabama, so long as I continue a citizen thereof; and that I will faithfully and honestly discharge the duties of the office upon which I am about to enter, to the best of my ability, so help me God.

Signed)  
\_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Signed) \_\_\_\_\_  
[Title of officer administering oath]

# Sample Ordinance to Hire Mayor as Utility Superintendent

## AN ORDINANCE

BE IT ORDAINED BY THE CITY [TOWN] COUNCIL OF THE CITY [TOWN] OF \_\_\_\_\_, ALABAMA, AS FOLLOWS:

**Section 1.** The Mayor of the City [Town] of \_\_\_\_\_, Alabama, \_\_\_\_\_ [insert name of mayor], is hereby required to act as the \_\_\_\_\_ [full-time or part-time] Superintendent of the \_\_\_\_\_, [insert name of utility system] and as such shall serve as purchasing agent for such system, make all purchases authorized by the City [Town] Council therefor, keep a check on meter readings and billings for service and collection thereof, see that the system is kept in proper repair and operation, keep an inventory showing the supplies and equipment on hand for such system, keep a full and complete monthly financial statement of all operating costs and receipts, keep a proper inventory of the physical assets of such system, and have all such data and information relative to such system available for the City [Town] Council on its first meeting in each calendar month.

**Section 2.** In addition to the salary now fixed and paid to the Mayor of the City [Town] of \_\_\_\_\_, Alabama, there shall be paid to the Mayor for his services as Superintendent of the utility system named in Section 1 of this ordinance the sum of \$\_\_\_ per month payable on the \_\_\_ day of each calendar month out of the receipts of such utility system.

**Section 3.** The City [Town] Council of the City [Town] of \_\_\_\_\_, Alabama, may at any regular meeting or special meeting called therefor, discontinue the services of the Mayor as Superintendent of the utility system, and in the event of such discontinuance of his services as such Superintendent of such system, all compensation authorized to be paid in Section 2 hereof shall lapse.

**Section 4.** This ordinance shall become effective on \_\_\_\_\_ and shall expire on \_\_\_\_\_, and sooner if the present mayor shall vacate the office.

ADOPTED THIS THE \_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
Clerk





## U.S. Department of Justice

## Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 18 1989

Honorable Don Siegelman  
Attorney General  
State of Alabama  
11 South Union Street  
Montgomery, Alabama 36130-1601

Dear Mr. Attorney General:

This refers to Act No. 88-873, the Fair Campaign Practices Act (FCPA), for the State of Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your letter notifying us of your inability to submit further information regarding this act on August 22, 1989. Supplemental information was received from the Alabama Secretary of State on August 30, 1989. Although the State of Alabama has still not provided all of the additional information requested in our letters of December 16, 1988, and March 7, 1989, we are concerned that further delays may prevent implementation of important legislation. Accordingly, we set forth herein a determination under Section 5 of each voting change occasioned by the FCPA which is clearly identified in currently available materials. If you subsequently determine that the act adopts other changes that affect voting or that our present understanding of the changes is in error, such matters should be raised for future determination.

With this understanding, the Attorney General does not interpose objection to the following changes: the requirements that candidates report campaign contributions and expenditures at certain times before elections as well as on a yearly basis afterwards; the requirements respecting the formation and duties of political committees; the format of required reports; and, the various penalties for noncompliance. These are all changes affecting voting which we have been able clearly to identify as such from the original submission or from the additional written materials provided by you or the Alabama Secretary of State. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine any of these changes if additional information

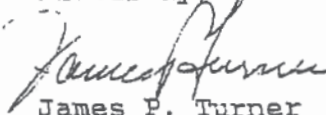
- 2 -

that would otherwise require an objection comes to his attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

With regard to the remainder of the submission now before us, we note that certain provisions of the predecessor Corrupt Practices Act of 1915 do not appear to have analogues in the Fair Campaign Practices Act, and the State has failed to discuss whether the repeal of those provisions effects actual changes in practices or procedures affecting voting. Accordingly, to the extent these repeals occasion substantive changes affecting voting, they are not evaluated herein because the State has not identified them in an "unambiguous and recordable manner" (Allen v. State Board of Elections, 393 U.S. 544, 571 (1969)) as required by the Act. See also McCain v. Lybrand, 465 U.S. 236, 243-50 (1984); United States v. Board of Commissioners, 435 U.S. 110, 136 (1978).

Finally, State officials have yet to agree on the scope of changes relating to candidates' financial reporting requirements imposed by the FCPA. It seems that all officials agree that the FCPA requires every individual who receives contributions or makes expenditures in excess of certain amounts identified in the FCPA, e.g., \$1,000 for local offices, \$3,000 for district offices, and \$10,000 for other state offices, must comply with new reporting requirements. We interpose no objection to this change. However, your office and that of the Secretary of State seem to disagree on whether those who qualify as candidates under state law and who receive or expend less than the identified amounts must also comply with the FCPA reporting requirements. Accordingly, should the State wish to enforce such a reporting requirement it will be necessary to clearly set forth the change in an appropriate submission to the Attorney General or bring the matter before the District Court for the District of Columbia for the required declaratory judgment. Such changes are unenforceable unless and until Section 5 preclearance requirements have been satisfied. See 28 C.F.R. 51.10.

Sincerely,



James P. Turner  
Acting Assistant Attorney General  
Civil Rights Division







**Disclaimer:** This elections manual is provided as a service to persons involved in the general municipal election to be held on August 26, 2025, with a runoff on September 23, 2025, if necessary. **The use of this manual and any accompanying ordinances, calendars or other information is at the sole risk of the user.** It is the responsibility of the user to verify any information included in this manual prior to use or reliance thereon. The Alabama League of Municipalities, its officers and employees, and the municipality and/or official which may distribute this manual disclaim any responsibility of liability for failure to comply with any filing requirement or any other election law.

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