

## **Frequently Asked Questions**

### **1. Are term limits in effect for the 2013 general city elections?**

No. Idaho's term limits statute was repealed by the 2002 Idaho Legislature.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

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

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

Since the city clerk is responsible for receiving filing forms from candidates, the Declaration of Candidacy, Petition of Candidacy and Declaration of Intent will be retained by the city and pursuant to the provisions of Idaho Code 50-907(1)(g) these are classified as permanent records. Likewise, since the city clerk is responsible for overseeing campaign finance reporting in cities over 5,000 population, these reports will also be retained by the city and pursuant to Idaho Code 50-907(1)(g) these are classified as permanent records. Permanent records must either be retained by the city in perpetuity or be transferred to the State Archives upon resolution of the city council.

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

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

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

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

Yes. Every elector who registers is required to swear under oath or affirmation that he/she is a citizen of the United States—Idaho Code 34-411(1)(d).

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

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

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

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

**7. Can a candidate sign his or her own Petition of Candidacy?**

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

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

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

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

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

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

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

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

**OR**

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

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

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

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

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

- An Idaho driver’s license or identification card issued by the Idaho Transportation Department,
- A U.S. passport or photo identification card issued by an agency of the federal government.
- A tribal photo identification card.
- A current student photo identification card, issued by an Idaho high school or college.

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

**12. Can candidates campaign on Election Day?**

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

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

Ordinances changing the compensation for elected officials must be passed by the council ***and published*** at least 75 days prior to any general city election (Thursday, August 22, 2013). The salary change takes effect January 1 following the election—Idaho Code 50-203.

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

Idaho Code 50-704 provides that councilmember vacancies “shall be filled by appointment made by the mayor with the consent of the council, which appointee shall serve only until the next

general city election [held in November of each odd-numbered year], at which such vacancy shall be filled for the balance of the original term.”

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

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

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

In the November 5, 2013 general city election the only council positions up for election to two-year terms are those filled by appointment in 2012 or 2013, which have a four-year term of office expiring December 31, 2015.

For example, John Smith was appointed on May 5, 2013 to fill a vacant position on the city council that has a term of office expiring December 31, 2015. This position will be up for election on November 5, 2013. Mr. Smith may choose to run to serve the remaining two years of the term of office or may choose to run for another office, including a four-year council position or mayor. Regardless of who is elected, the position will be up for election again in November 2015 for a four-year term.

If Mr. Smith were appointed on May 5, 2013 to fill a vacancy on the city council with a term of office expiring December 31, 2013, the position would be up for election at the November 5, 2013 general city election for a four-year term.

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

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

If an individual has been appointed mayor in 2012 or 2013, the office is up for election at the 2013 general city elections for a four-year term of office.

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

Yes. The blank application for absentee ballot may be faxed or emailed from the city clerk or county clerk to the elector, and the completed, signed application may be faxed or scanned and emailed from the elector to the county clerk—Idaho Code 34-1002(7).

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

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

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

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

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

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

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

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

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

**21. If there is only one candidate on the ballot for each office up for election and no declared write-in candidates, must an election still be held?**

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

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

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

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

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

**24. May voters register at the absentee polling place or early voting facility?**

Yes. Persons may register to vote at the absentee polling place or early voting facility—Idaho Code 34-408A & 34-1012(2).

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

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

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

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

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

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

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

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

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

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

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

The only legal notice the city clerk is required to publish is the notice to potential candidates (see Appendix B for a model form) which must be published once as a legal notice in the official city newspaper between 7 and 14 days prior to the candidate filing deadline—between Friday, August 23 and Friday, August 30, 2013. The notice must include: the name of the city, the date of the election, the offices up for election, that filing forms are available from the city clerk, and the filing deadline—Idaho Code 50-411. The notice of election and sample ballot are published by the county clerk.

**29. What is the period for candidate filing?**

The period for candidates to file to get their name on the ballot begins at 8:00 a.m. on Monday, August 26 and ends at 5:00 p.m. on Friday, September 6, 2013—Idaho Code 50-410.

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

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

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

Nominated candidates (those listed on the ballot) have until Friday, September 20 to withdraw from the election by filing a notarized statement of withdrawal with the city clerk (see Appendix G for a model form)—Idaho Code 34-1405A.

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

**32. What is the process for installing officials elected at the 2013 general city election?**

Mayors and councilmembers elected at the 2013 general city election are sworn-in and seated at the first council meeting in January. In preparation for this important event, AIC will mail each city a packet containing instructions for installation of officers, certificates of election and appointment and a copy of the oath of office.

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

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

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

### **2. Officials Subscribe to the Oath of Office.**

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

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

### **3. Presentation of Certificates of Election.**

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

### **4. Elect President of the Council.**

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

### **5. Filling Vacancies.**

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

- ✓ A mayoral vacancy is filled by the council, by the vote of a majority of members present and voting. The appointee serves until the next general city election—November 2015—at which point the office is up for election to a four-year term.
- ✓ For vacancies in the office of councilmember, the position is filled by mayoral appointment and must be confirmed by a majority of councilmembers present and voting. The individual serves until the next general city election—November 2015—at which point the office is up for election as follows.

- If the normal four-year term of office expires at the end of 2015, the position is up for election to a four-year term.
- If the normal four-year term of office expires at the end of 2017, the position is up for election for the remaining two years of the term at the 2015 general city election. The position is then up for a four-year term in 2017.

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

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

The person can be installed at the following council meeting.