

## CHAPTER 10.

## CONDUCT OF LOCAL ELECTIONS.

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10.01 Board of election commissioners; Milwaukee. There is created a board of election commissioners for each city having more than one hundred thousand inhabitants, however incorporated, composed of three members, who shall be appointed as follows: The mayor of each said city shall appoint three members for terms of one, two and three years, respectively, dating from July first, in the year in which they are appointed, and until their successors are commissioned and qualified. Successors shall be appointed in like manner and their terms of office shall be three years in all cases and until their successors are commissioned and qualified. The board shall be composed of one member from each of the three dominant political parties, as shown by the returns of the last preceding general election, and appointments shall be made in accordance with this rule. The party affiliation in each case shall be attested by the respective chairmen of the city committees of the several political parties before such appointment shall be in force. The board shall choose its own chairman. Such commissioners shall be legal voters, and residents of the state for at least five years, and of the city for a like period of time. They shall hold no other public office, the office of notary public excepted, and shall be ineligible to any other elective or appointive public office, while members of such board, and shall, before entering upon the duties of election commissioners, subscribe to an oath binding them to support the constitution of the United States and of the state of Wisconsin, and to conduct themselves faithfully and impartially in office; said oath of office to be filed in the office of the city clerk.

**Note:** As to proper remedy to enforce this section, see note to 269.56, citing *McCarthy v. Hoan*, 221 W 344, 266 NW 916.

10.02 Powers and duties of board. (1) Said board of election commissioners shall have power to employ a secretary, who shall prepare and furnish copies of all registra-

tions and all books, maps, instructions and blanks for the use and guidance of inspectors of election and ballot clerks and all rules and regulations pertaining to registration and conduct of elections, and who shall perform such other and further duties pertaining to their department or to the city clerk's office as may be required of him by the board of election commissioners, and he shall receive such salary as the common council may determine. The appointment and removal of such secretary shall be subject to the civil service laws of this state applicable to such cities.

(2) The board may procure a seal with which to authenticate official papers and documents.

(3) The board of election commissioners is authorized to employ such additional clerical assistants as shall be necessary from time to time, who shall receive such compensation as the common council shall determine.

(4) The city shall furnish office room in the city hall for said commissioners and all expenses incurred by the board according to law shall be paid out of the city treasury, and the common council shall provide a sufficient fund for such commission in the budget as they deem necessary for the purposes provided by law. The expenses incurred by said board shall be paid upon the orders of said board, signed by the chairman and secretary, and countersigned by the city comptroller. Such orders shall be made payable to the order of the persons in whose favor they shall have been issued, and shall be the vouchers for the city treasurer for the payment of such orders.

(5) The board shall compile and publish an annual report, containing election statistics and returns of all primaries and elections held within the city and county of Milwaukee. Copies of the same shall be distributed to such persons and in such quantities as the board may deem proper.

**10.03 Registration of electors.** After its first organization, such board of election commissioners shall prepare for a new and general registration of voters for the next following election; and when made, such registration shall be continued and revised in proper time for every succeeding election in the manner hereinafter provided.

**10.04 Board appoints election officers.** (1) Such board of election commissioners shall, during the month of January, 1920, and during the same month biennially thereafter, appoint 3 qualified voters as inspectors of election for each precinct in said cities. They shall be citizens of the United States; shall be of good repute and character; able to read and write the English language; be of good understanding and capable. They must reside in the ward for which they are selected to act and be entitled to vote therein at the next election, and not hold any other public office or employment, notary public excepted, and shall not be candidates for any public office while acting as such inspectors of election. The elected ward committeemen of each of the 3 dominant political parties as shown by the returns of the last preceding general election shall certify to the board of election commissioners a list containing the names of not less than 2 qualified voters for each such position in such ward and one of the persons whose names are so certified by the respective ward committeemen shall be appointed as inspectors by said board.

(2) The said board shall also appoint at the same time 2 ballot clerks in each precinct who shall possess the same qualifications and serve under the same restrictions as the inspectors aforesaid, except that the 2 ballot clerks so appointed shall be taken from the list of names as provided for in subsection (1).

(3) Before entering upon the duties of their offices, each inspector and ballot clerk so appointed shall subscribe to a like oath to that taken by the election commissioners, which shall be filed with the board of election commissioners and which shall be for the faithful performance of their duties during their entire term of office, and no further oath shall be required of them.

(4) (a) Said inspectors and ballot clerks shall be appointed for terms of two years and until their successors have been appointed and qualified. Said inspectors shall, during said term, serve as inspectors at all elections in such cities, but said ballot clerks only when paper ballots are used.

(b) Said ballot clerks shall, at the request of the board of election commissioners, assist the inspectors in the canvassing of the votes received at the respective polling places.

(5) Where a vacancy in the office of inspector or ballot clerk shall occur from any cause, said commissioners shall make an appointment to fill such vacancy, from the list of names as provided for in subsection (1).

(6) In each precinct not more than one of said inspectors, nor more than one of said ballot clerks, so nominated, shall be of the same political party, and such inspectors shall be chosen from the 3 dominant political parties as shown by the returns of the last preceding general election in such precincts, and such ballot clerks shall be chosen from the 2 dominant political parties as shown by the returns of the last preceding general election in such precinct.

(7) If any person holding the position of inspector or ballot clerk of election shall in the opinion or judgment of the board of election commissioners be found not to possess the qualifications prescribed in this section, or if any inspector or ballot clerk in the judgment of said board of election commissioners shall be guilty of neglecting the duties of his office, or of any official misconduct, then such inspector or ballot clerk shall be summarily removed from office by said board, and the vacancy immediately filled by the appointment of a person having qualifications required by law.

(8) In case of the failure of the committeemen to furnish the list as provided in subsection (1) of section 10.04 on or before December 1, 1941, and on the same day biennially thereafter the board of election commissioners shall make said appointments. [1933 c. 206; 1937 c. 72; 1941 c. 165]

**Note:** The power of a board of election commissioners to remove inspectors and ballot clerks must be performed in the manner prescribed. There must be some investigation of the facts and a review thereof by the board, and they cannot delegate one of their members to discharge and appoint inspectors and ballot clerks. State ex rel. Mayer v. Schuffenhauer, 213 W 29, 250 NW 767.

Under 10.04 (6), Stats. 1937, the same basis for determining the parties entitled to the appointment of election officers is to be applied as is applied under section 6.32.

State ex rel. Milwaukee Co. Rep. Comm. v. Ames, 227 W 643, 278 NW 273.

The only matter of great public concern in the administration of 6.32 and 10.04 (6), the latter providing for election officials in the city of Milwaukee, is that elections be honestly conducted and that the devices contrived by the legislature to secure this result be not so distorted as to defeat the purpose of the legislature. State ex rel. State Central Committee v. Board, 240 W 204, 3 (2d) NW 123.

10.05, 10.06 [Repealed by 1925 c. 134]

**10.07 Compulsory service as election officer.** Service as inspector of election or ballot clerk under this chapter shall be mandatory upon all qualified voters so appointed, during a full period of two years, after which they shall be exempt from further service under this act until three terms of two years each, shall have elapsed; the election commissioners being charged with discretion and authority in cases of request for exemption from service as such election officers at any time.

**10.08 Control of registration of electors.** The board of election commissioners shall have full charge and control of the registration of voters within the city for which such board is appointed, and registration shall be made as hereinafter provided.

10.09 [Repealed by 1937 c. 73]

**10.10 Form of registration cards.** Registration cards shall be printed for registration purposes. The blanks may be filled in by some other person than the voter, except that in the space provided for the signature, the voter himself must sign his name or make his mark. The cards shall provide headings for the following entries to be made for registration:

Date.

Ward.

Precinct.

Name.

Residence.

Exact location.

Are you a citizen of the United States?

Have you lived in the state for one year or more?

Have you lived for ten days or more in this precinct?

Have you lived for ten days or more in this ward?

Are you twenty-one years of age?

Are you for any reason excluded from the right of suffrage?

Signature.

10.11 [Repealed by 1937 c. 73]

**10.12 Compilation of official registers.** Under the direction of the board of election commissioners, an official registry for each precinct shall be compiled from all cards so received, which indicate that the signers thereof are legal voters. Such official registry shall contain in book form the names and addresses of all persons shown to be legal voters by the returns made on such cards. The names of voters shall be arranged in numerical order of houses located on each street separately, commencing with the lowest and ending with the highest number within the precinct. The streets shall be arranged in geographical order from east to west and north to south.

**10.13 Registry lists; posting.** As soon as the cards received have been transcribed into said books, the board of election commissioners shall cause a sufficient number of registry lists to be printed from such official registry, not exceeding one hundred for each precinct, and shall cause to be conspicuously posted in each precinct within such city twenty-five copies thereof through the agency of the police department.

**10.14 Printing of registry lists.** The board of election commissioners shall cause to be obtained from at least three persons within the county, sealed proposals for the printing of said lists, and shall award the contract therefor to the lowest competent and responsible bidder. The board shall have authority, in its discretion, to call for proposals and to let contracts for printing said registry lists for one or more elections at any one time, if it is deemed to the advantage of the city.

**10.15 Revision of registry; correction.** (1) The board of election commissioners shall revise and correct, prior to each primary and election, the registry as prepared by them; first, by striking therefrom the name of any person who shall have died or removed from the precinct where he is registered, or any voter who has adopted a new name, or who shall be proved, by the oath of 2 electors of the district, to be not entitled to vote in such precinct at the next ensuing election or primary election, unless such person after being notified by the board shall appear and make affidavit stating his name and the period of his continuous residence in the election district, and that he resides in such precinct, giving the number and the street of the affiant; and in case he is of foreign birth stating when he came to the United States and to this state, and the time and place when he became a citizen of the United States, and that he is entitled to vote at the election; second, by entering on the proper list for any precinct the name of every elector entitled to vote in that precinct at the next election or primary, who shall file a registration card such as is hereinbefore provided for, properly filled in and sworn to before said secretary, or such other party or parties duly authorized by said board at the office of the board or at such temporary offices thereof as the board may designate, with the approval of the common council. In every case of a name stricken from the registry, the reason therefor shall be stated in writing on the list opposite the name so stricken. Not later than 5 p. m. central time on the second Wednesday next preceding a primary or an election, applications for corrections of said registry lists, or for adding thereto the names of voters, may be made at the office of the board of election commissioners, or at such temporary offices thereof as may be designated by the board, during the hours such offices shall be open for business. The board shall certify to the election inspectors in the proper precincts the names of all voters duly registered. All applications for registration made to said board shall be submitted by them to the chief of police for verification of the statements contained therein, and the police department shall also report to the board the names of such registered voters as shall be found to have died or removed from the precinct.

(2) Any registered elector may, upon change of residence within the municipality, cause his registration to be transferred to his new address by sending to the board of election commissioners a signed request, stating his present address and the address from which he was last registered, or by applying in person for a transfer.

(3) Any elector who is more than 50 miles away from his legal residence may be registered prior to the close of registration, before any election or primary in the following manner: He shall secure from the office of said board of election commissioners a blank registration affidavit with suitable instructions, and shall appear before a notary public or other public officer legally authorized to administer oaths and have said registration affidavit properly made out and signed by said elector, provided, for the purposes of this subsection, any duly commissioned officer of the military or naval service of the United States shall be authorized to administer the oath as herein required. The notary public or other officer administering the oath shall sign his name on the line for signature of the registration officer and affix his seal thereto, except that where the person administering such oath is a duly commissioned officer of the military or naval service of the United States no such seal shall be required to be affixed to such registration affidavit. The registration affidavit when properly executed, as herein provided, shall be returned to the office of said board of election commissioners and shall reach said office not later than the close of office hours on the last day of registration prior to the election or primary in order for such elector to be registered for that election or primary. [1933 c. 433 s. 3; 1937 c. 74; 1943 c. 102; 1945 c. 59]

**10.16 Age at time of election determines qualification for registry.** (1) Any person who is not twenty-one years of age before the date when the registry is required to be corrected, but who will be if he lives until the day of election, shall have his name put on such registry if he be otherwise qualified to be an elector.

(2) All registration cards shall be preserved by the several boards of registry and filed in the office of the board of election commissioners.

**10.17 Electors omitted from list may file cards and affidavits; use of lists at judicial elections, etc.** (1) After such registry lists shall have been fully completed as herein provided, no votes shall be received at any election in such cities if the name of the person offering to vote be not on the registry lists as completed, except as provided in this section. Any person who has not previously filed a registration card, and whose name is not on the

registry list, but who is a qualified voter in the precinct where he offers to vote, shall, nevertheless be entitled to vote at such election, provided he shall deliver to the inspectors of elections a registry card properly filled out and sworn to by himself, or if he cannot obtain such a card an affidavit containing the same statements as provided on said cards; and provided that his oath or affidavit is substantiated by the affidavit of two freeholders, electors in such precinct, corroborating all the material statements therein. The board of election commissioners shall provide a sufficient number of registration cards, with the required affidavit forms printed thereon. No compensation shall be paid or received for taking or certifying any affidavit required by this section. No one freeholder shall be competent to make at any one election corroborating affidavits for more than five voters. All such registration cards and affidavits shall be sworn to, in the office of the board of election commissioners before some officer authorized by the law of this state to administer oaths.

(1a) No such affidavit shall be made on the day on which the polls are open, except for changes of address by registered voters.

(2) The inspectors shall return to the board of election commissioners all registration cards filed with them, and said board shall include in the subsequent registry lists the names of the persons who file such cards, provided such persons are then entitled to be placed on the registry list.

(3) At judicial and school board elections or at any special election held for the purpose of filling a vacancy in an office which by law is to be filled by a city election, the registration list used at the last preceding general or city election may be used; and the inspectors of election at each polling place, on the day of election, shall revise the same by adding thereto the missing names of such persons as are known to them, or as shall be satisfactorily shown in the manner provided by law, to be entitled to vote at such election, and by striking therefrom the names of such as are known to them to have died or become disqualified since the last preceding registration. [1933 c. 355; 1937 c. 71; 1939 c. 279; 1939 c. 513 s. 3]

**10.18 Printing and posting of corrected registry lists.** (1) Upon the expiration of the time prescribed for the revision and correction of the preliminary registry lists the board of election commissioners shall forthwith cause to be printed therefrom, for use at the primary election and at the final election, respectively, not to exceed one hundred copies of such complete and corrected registries of each precinct, and through the agency of the police department, shall cause twenty-five copies thereof to be conspicuously posted in separate places in each precinct.

(2) Six copies of such precinct registry lists shall be furnished to each inspector for each primary and final election, of which two shall be used as check lists and in lieu of poll lists, at the primary and at the final election. To this end, two inspectors at each precinct at each election shall write after the name of each voter the serial number of his vote as the same is polled, and shall hand to each voter suitable certification slips, numbered serially, to be furnished by the board of election commissioners for this purpose. A special blank column shall be provided on the final printed registry list for this purpose; also a form of certificate setting forth that each list is a true and complete combined check and poll list of the respective precincts, which form shall be filled in and signed by the three inspectors of election in each precinct; such combined check and poll lists, duly verified, to be returned as provided by law.

**10.19 Registry list not to be added to after its completion.** After such registry shall have been fully completed on the days above mentioned, no names shall be added thereto, and no votes shall be received at any election if the name of the person offering to vote be not on the registry as completed, except as provided in section 6.44 of the statutes.

**10.20 Objections to registration; hearing.** Any voter may make objection before the board of election commissioners to the registration of any person. The election commissioners shall sit for the purpose of hearing such objections on the Wednesday of the first week prior to said election and primary election between the hours of nine A. M. and twelve M., and between two P. M. and five P. M., and if all such objections be not then determined it shall sit during the same hours of the next day. Such objectors shall appear in person before the commissioners on said day or days; they may be further examined by the commissioners under oath and further testimony may be taken in the premises. All cases shall be heard and decided summarily. If the board shall believe any person so objected to is entitled to registration, his name shall remain upon the registry; otherwise his name shall be removed, and the inspectors of the proper precinct notified immediately of such action. Minutes shall be kept of all objections made and action taken at such meetings.

**10.21 Registries open to public inspection; challenges.** All registries shall at all times be open to public inspection, and any voter shall have the right to challenge any applicant who applies to be registered, but such voter shall be examined under oath, touching the cause for such challenge; judgment in each case to rest with the board of registry and to be rendered as soon as heard. In the case of a naturalized applicant the board of registry may require him to show his naturalization certificate.

**10.22 Election officers exempt from jury duty.** Any person not regularly appointed by the board of election commissioners, but who shall duly serve as inspector or ballot clerk at any election because appointed to fill vacancy at the polling place, shall be exempt from jury service for six months thereafter.

**10.23 Board has charge and control of elections.** The board of election commissioners shall have power and authority to provide election booths, to fix and determine the places at which all elections within such city shall be held, and to fix and determine the boundaries of election districts or precincts within the limits prescribed by law, and the location of the voting booths therein, and shall have the custody of and control over all voting booths and voting machines, and the common council and the various departments of the city shall co-operate with the board of election commissioners to furnish available space and men and means for the storage of booths and machines, and for setting up and transporting the same; which said board of election commissioners may arrange with any officer, ward or department having charge of any public buildings, for the use of school buildings and other public buildings for voting purposes, and it is hereby made the duty of such officers, ward and departments to permit the use of school buildings and other public buildings under their jurisdiction for voting purposes without any charges therefor at any primary or election. It shall be the duty of the chief of police to station at least one policeman at each voting booth at every primary or election. Said board of election commissioners shall perform such duties and have such authority as have been heretofore required by law to be performed by, or has been vested in the board of canvassers for city primaries, the common council or the city clerk in relation to the conduct of and control over elections within such city, except as otherwise provided in sections 10.01 to 10.31, inclusive.

**10.24 Voting machines.** The board of election commissioners may provide that the official voting machines may be used for the purpose of voting on all candidates and questions at any election or primary, whether or not the names of such candidates or questions are required by law to be placed upon separate ballots; provided, that where the law requires the names of candidates or questions to be placed upon separate ballots, such names and questions shall be placed in separate columns upon the voting machines, and the machines shall be so arranged that a separate vote can be cast for such candidates and questions.

**10.25 Board to act as canvassing board and destroy ballots.** (1) The board of election commissioners shall be the board of canvassers of the primary and election returns for such city, and shall perform all the duties in regard to the canvass of votes for city officers and upon city questions that are required by law to be performed by any city officers or the chairmen of party committees except such as are required by law to be performed by the election inspectors, and shall issue certificates of nomination and election to such persons as the canvass shall show are entitled to the same.

(2) The provisions of section 6.60 relating to the return and destruction of ballots shall apply to local primaries and elections so far as applicable; and said board shall have the custody of such ballots and destroy them within the time and in the manner so provided.

**10.26 Compensation of commissioners.** The commissioners of election shall receive such salaries as the common council of such city shall determine.

**10.27 Compensation of election officers.** The inspectors and ballot clerks shall receive the same compensation provided in section 6.325 of the statutes, and any amendments now or hereafter made thereto.

**10.28 Majority rule.** The act of a majority of such board of election commissioners shall be considered as the act of said board of election commissioners.

**10.29 Board controls and directs election officers.** It is hereby made the duty of the commissioners of election to furnish printed instructions to inspectors and ballot clerks, defining their duties and the law governing elections, and said commissioners of election are hereby empowered and required to have general supervision of all elections and to see that such elections are conducted according to law, and to review, examine and certify the sufficiency and validity of petitions and nomination papers, and to report suspected frauds, irregularities or violations of state election laws to the district attorney. [1935 c. 35]

10.30 [Renumbered section 17.12 by 1919 c. 362 s. 24]

10.31 **City authorities to co-operate with board.** It shall be the duty of all officers and departments of cities aforesaid to co-operate with the board of election commissioners so as to carry out the provisions of this section.

10.32 [Renumbered section 10.39 by 1933 c. 433 s. 2]

10.33 **Clerks supervise registrations and elections.** Except as otherwise provided, the clerk of every city, village or town, other than cities having more than one hundred thousand inhabitants, shall have general charge and supervision of the conduct of elections and registrations within said municipality. He shall perform the following duties, and such other duties as may be imposed upon him by law, or as may be necessary for the proper conduct of elections and registrations:

- (1) To equip polling places.
- (2) To provide for the purchase and maintenance of election equipment of all kinds, and to provide ballots and other supplies for the conduct of elections.
- (3) To prepare all notices, advertisements and publications in connection with the conduct of elections or registrations.
- (4) To instruct election officers in their duties, calling them together in a meeting whenever deemed advisable, and to inspect systematically and thoroughly the conduct of elections in the municipality, to the end that elections may be honestly, efficiently, and uniformly conducted.
- (4a) An election official may be discharged by the clerk for improper conduct or wilful neglect of duties.
- (5) To report suspected election frauds, irregularities, or violation of state election laws of which he has knowledge to the district attorney.
- (6) To review, examine and certify the sufficiency and validity of petitions and nomination papers. [1933 c. 433 s. 4; 1939 c. 269]

10.34 [Repealed by 1933 c. 433 s. 1]

10.35 **Application of general city election laws.** Except as otherwise specially provided, sections 10.35 to 10.44 and chapters 5 and 6 apply to all city elections in all cities.

10.36 **Regular city elections; time; opening and closing of polls; notice.** (1) The annual or biennial municipal election in all cities shall be held on the first Tuesday in April at such place or places as the city council shall designate; provided, that in cities of the fourth class the city council by ordinance duly adopted by a three-fourths vote of all the members-elect, may fix as the time of holding such election the first Tuesday in March.

(2) The polls shall be opened and closed at city elections at the times provided by section 6.35.

(3) Ten days' previous notice of the time and place of such election and of the officers to be elected shall be given by the city clerk by publication in the official city paper and by posting written or printed notices in three public places in the city; but the failure to give such notice shall not invalidate such election.

(4) The city clerk shall rotate on the official ballot the surnames of the candidates who are entitled to have their names placed thereon as provided in subsections (2) and (3) of section 5.11. [1939 c. 169, 464]

**Note:** Special city election on whether date election, and provision of 5.01 (6) that city should acquire property of privately owned public utility, at which overwhelming affirmative vote was cast, is held valid, notwithstanding failure to give ten days' previous notice as required by 10.36 (3), 10.40 (1), in view of provision of 10.36 (3) that failure to give such notice shall not invali-

election statutes shall be so construed as to give effect to will of electors, notwithstanding informality or failure to comply with some of statutory provisions. Commonwealth Tel. Co. v. Public Service Commission, 219 W. 607, 263 NW 665.

10.37 **Method of election; plurality rule.** All elections shall be by ballot and a plurality of votes cast shall constitute an election. When two or more candidates shall receive an equal number of votes for the same office the election shall be determined by the casting of lots in the presence of the council at such time and in such manner as such council shall direct. To the person elected to any office the city clerk shall issue a certificate of election.

**Note:** Person not candidate for alderman office if he receives plurality of votes cast at primary and whose name is not printed upon official city ballot is elected to such 24 Atty. Gen. 346.

10.38 **Election functions of county clerks to be exercised by city clerks, or election commissioners.** The functions and duties prescribed for county clerks by sections 6.25, 6.26, 6.27, 6.28 and 6.29 shall be exercised and performed by the board of election commissioners for city elections in each city having more than one hundred thousand inhabitants, and by the city clerk for city elections in every other city; and the provisions of

said sections shall apply to city elections, except that the ballots, official and sample, shall be printed and in the hands of such board or of the city clerk at least two days before the election, and that the expense of printing and distributing them shall be borne by the city.

**10.385 Destruction of ballots.** The provisions of section 6.60 relating to the return and destruction of ballots shall apply to local primaries and elections so far as applicable; and in towns, villages and cities of the second, third and fourth classes, the town clerk, village clerk or city clerk, as the case may be, shall have the custody of such ballots and destroy them within the time and in the manner so provided, except that the two electors, in whose presence the ballots shall be destroyed, shall be designated by the chairman of the town, the president of the village, or the mayor of the city, as the case may be.

**10.39 Primaries in commission cities.** (1) In cities operating pursuant to sections 63.01 to 63.14 of the statutes, excepting as provided in section 5.025, candidates for mayor and councilmen shall be nominated at large by a primary election 3 weeks before the municipal election in the manner provided for the nonpartisan nomination of candidates for elective city offices by chapter 5, so far as such provisions are applicable, and shall be elected by the voters of the city at large.

(2) The ballot used at every such primary and at every such election shall be in substantially the forms prescribed by chapter 5 and chapter 6 for city primaries and city elections and shall plainly indicate for how many candidates each elector may vote, which, in the case of mayor, shall be one candidate; and in the case of councilmen the number shall be the number of candidates to be elected.

(3) At the first primary after adopting the commission form of government the two candidates for mayor and the four candidates for councilmen receiving the highest number of votes shall be deemed nominated. At subsequent primaries the two candidates for either office receiving the highest number of votes shall be deemed nominated. The names of such nominees and no others shall be placed upon the ballot used at the next succeeding city election. [1931 c. 6; 1933 c. 433 s. 2, 3; 1941 c. 230]

**10.40 Special city elections.** (1) Special elections authorized by law shall be held and conducted and the returns thereof made in the manner and within the time required in the case of regular municipal elections.

(2) Whenever the common council of any city shall, by ordinance or resolution, submit any question, ordinance, or proposed recall from office to a vote of the electors, the city clerk shall issue a call for the election and prepare and distribute ballots as required by the ordinance or resolution or by the statute relating to or authorizing the submission. When no provision to the contrary is made the ballot shall conform to the provisions of section 6.23, except that it may be printed at the foot of the official ballot used at the same time for other purposes. In all other respects the election shall be conducted as other municipal elections are conducted.

**10.41 Separate school ballots.** Where the election of school officers in any city is required to be by a separate ballot, separate official ballots for such officers shall be printed and furnished to the inspectors of election in the several wards in sufficient quantities to supply the electors. When officers are elected pursuant to section 40.52 (1) (a), they may be placed upon the same ballot as other city officers. [1943 c. 232]

**10.42 Canvassing returns.** Except as provided otherwise by section 10.25 the common council of every city and the village board of every village comprised of 2 or more election precincts, shall canvass the returns and declare the result of every annual, special or referendum election held in and for such city or village. Such canvass shall proceed with all convenient speed immediately after the returns are received, and in the case of annual elections the result shall be declared on or before the second Tuesday of April in each year.

**10.43 Direct legislation.** (1) A petition signed by electors of any city equal in number to not less than fifteen per cent of the vote cast therein for governor at the last general election may be filed with the city clerk requesting that a proposed ordinance or resolution annexed thereto either be adopted without alteration by the common council of said city or be referred without alteration to a vote of the electors thereof.

(2) The preparation of such petition shall be governed as to the use of more than a single piece of paper, the dates of signatures, the places of residence of signers, and the verification thereof, by the provisions of section 5.26 so far as applicable.

(3) Within fifteen days next following such filing the city clerk shall determine by careful examination the sufficiency or insufficiency of such petition and state his finding in a signed certificate dated and attached thereto. If the petition be found insufficient, the particulars of such insufficiency shall be set forth in the certificate, and the petition may thereupon be amended within ten days next following the date of said certificate, by the

addition of signatures or otherwise. If originally, or after amendment, such petition be found sufficient the city clerk shall so state in his attached certificate and submit the same to the council immediately.

(4) Such proposed ordinance or resolution shall thereupon either be passed without alteration by said common council within the thirty days next following the date of the clerk's final certificate, or it shall be submitted without alteration by said council to the electors of the city at the next regular election, if one be held not less than forty days after such date, otherwise at the next succeeding regular election; but the council may by a three-fourths vote of the members-elect order it submitted at a special election called for that purpose at any time prior to said next succeeding regular election. But not more than one such special election shall be called in any period of six months.

(5) Not more than twenty nor less than five days before the election, the city clerk shall cause the ordinance or resolution submitted to the voters to be printed in at least two, but not to exceed four, daily newspapers published in the city, or, if there shall be but one daily newspaper published in said city, then in such daily newspaper and in one or more other daily or weekly newspapers of general circulation therein, or, if there shall be no daily newspapers published in such city, then in one or more daily or weekly newspapers of general circulation therein.

(6) Such proposed ordinance or resolution shall take effect immediately after such election if a majority of the qualified electors voting thereon shall vote in favor thereof; and it shall be neither repealed nor amended within two years after its adoption, except by vote of the people. But the council may submit at any regular or special election for determination by a majority of the electors voting thereon a proposition to repeal or amend such ordinance or resolution. Every such ordinance or resolution shall be published by the city clerk within ten days after the election in the manner provided in subsection (5). City ordinances or resolutions adopted pursuant to this section shall not be subject to the veto power of the mayor. [1931 c. 371; 1945 c. 302]

**Note:** Where election on aldermanic form of city government was held, notice was given, ordinance was published, and form of question presented, this was sufficient, though notice was not that required by statute. State ex rel. Oaks v. Brown, 211 W 571, 249 NW 50. The forfeiture feature of subsection (2), Stats. 1935, does not apply to the circulation of a petition for a referendum on a charter ordinance under 62.01. State ex rel. Kunz v. Wendt, 225 W 10, 273 NW 72.

Re referendum on aldermen's salaries, see note to 62.09, citing Feavel v. Appleton, 234 W 483, 291 NW 830.

See note to 66.06 citing Flottum v. Cumberland, 234 W 654, 291 NW 777.

See note to sec. 22, art. IV, Const., citing Marshall v. Dane County Board, 236 W 57, 294 NW 496.

See note to 66.01, citing 27 Atty. Gen. 593.

**10.44 Recall elections.** (1) A petition addressed to the common council of any city demanding the election of a successor to the incumbent of any elective office of such city, containing a specific statement of the grounds upon which the removal is sought and signed by electors entitled to vote for such successor equal in number, in cities of the third or fourth class to at least one-third, and in cities of the first or second class to at least one-fourth, of the entire vote cast in such city at the last preceding election for all candidates for the office in question may be filed with the county judge of the county in which such city is located at any time after the incumbent has held the office six months. But if at the last preceding election any group of candidates were voted for in common to fill two or more offices of the same designation the proportion of signers of such petition shall be computed upon the entire vote cast for all such candidates, divided by the number of such offices filled at said election.

(2) The preparation of such petition shall be governed as to the use of more than a single piece of paper, the dates of signatures, the places of residence and business of signers and the verification thereof, by the provisions of section 5.26 relating to nomination papers, so far as applicable. After the petition has been filed, no name shall be erased or removed therefrom; and no signature shall be valid or be counted unless its date is less than one month preceding the date of such filing.

(3) Within ten days next following such filing the county judge shall determine by careful examination the sufficiency or insufficiency of such petition and state his finding in a certificate attached thereto. If the petition be found insufficient, the particulars of such insufficiency shall be set forth in the certificate; and the petition may thereupon be amended within ten days next following the making of such certificate, by the addition of signatures or otherwise. If originally, or after amendment, such petition be found sufficient the county judge shall so state in his attached certificate and submit the same to the council immediately.

(4) Thereupon the council shall order and fix a date for holding an election not less than 40 nor more than 50 days from the date of the county judge's final certificates attached to the petition. In the event the county judge certifies that petitions are sufficient to require elections to recall more than one official, the date fixed by the council for holding

any one of such elections shall be not less than 40 nor more than 65 days from the date of said judge's final certificate.

(5) Any person qualified for such office other than the incumbent may become a candidate at such election in the manner prescribed by section 5.26, by filing his nomination papers not less than thirty days before the election. If more than two candidates, including the incumbent, be thus provided a primary shall be held two weeks before the election, except as provided otherwise by subsection (4) of section 5.02 and by section 5.26.

(6) A request in writing by the incumbent that his name be not placed on the ballot shall constitute a resignation of his office. Unless he shall so request, the name of the incumbent shall be placed upon the official ballot for such election without nomination, and also the name of such person as may be nominated in the manner provided by section 5.26 when there is no primary. If a primary be held the name of the person receiving the highest number of votes thereat shall be placed on the ballot with the name of the incumbent when the latter is a candidate; and when the incumbent is not a candidate, the names of the two persons receiving the highest number of votes at the primary shall be placed upon the ballot for such election.

(7) If the incumbent receives the highest number of votes he shall continue in office. If another receives the highest number of votes he shall, upon qualifying, become the successor of the incumbent who shall thereby be removed from the office. Such successor shall qualify within ten days after receiving notification of his election and shall hold office during the unexpired term of the officer removed. [1943 c. 62]

**10.45 Village elections; time; notice.** The annual charter election of every village shall be held on the first Tuesday of April in each year. Ten days' notice thereof shall be given by the clerk by publication in any newspaper regularly published in such village, and if there be no such newspaper, then by posting three printed or written notices thereof in three public places therein; but the omission of such notice shall not invalidate such election. Special elections may be held when ordered by a majority of the village board specifying the objects thereof, provided ten days' notice, specifying the time and place for holding the same and the objects thereof, be given as above provided. Such notice may, in either case, be given by any five electors if there be no officer to give the same.

**10.46 Village elections; place; opening and closing of polls.** Every village election shall be held at a place designated by the village board. The opening and closing of the polls shall be governed by the provisions of section 6.35.

**10.47 Method of village elections; plurality rule.** All elections shall be by ballot, and all votes for elective officers at any village election shall be upon one ballot and be deposited in one ballot box. A plurality of votes shall elect; and if two or more persons receive an equal number of votes for the same office the election shall be forthwith determined by lot in the presence of the inspectors in such manner as they shall direct. Every qualified elector having his voting residence in such village may vote at any such election held therein. [1935 c. 175]

**10.48 Ballots for village elections; form and printing.** (1) The village clerk shall cause to be printed at the expense of the village a sufficient number of sample and official ballots for every village election. Such sample ballots shall be printed upon tinted paper and the official ballots upon white paper, and both shall be of sufficient length and width to afford space for the names of all candidates. The offices to be filled shall be arranged on the ballot in the order in which they are named in the statutes creating them, and the names of the candidates shall be arranged in alphabetical order under their respective office designations. Sufficient space shall be left under each office to write a name in lieu of any name printed therein. Such official ballots shall be indorsed as provided by subsection (14) of section 6.23 of the statutes, except that the indorsement of one clerk shall be sufficient when only one clerk is required, by law, to be present.

(2) The names of the persons nominated in the manner provided in section 5.27 and none other shall be placed upon the official ballots; provided, that in case no nominations are made, the spaces in which names of candidates may be printed or written shall be left blank.

**Note:** Preparation of ballots in village or town election is duty of clerk. Names of all candidates for office whether nominated at caucus or by nomination papers should be arranged alphabetically for each office with instructions to vote for one, two or three as case may be; that includes village trustees. 20 Atty. Gen. 159.

Village ballot should contain names of all candidates for office of trustee arranged in alphabetical order rather than in pairs. 27 Atty. Gen. 150.

**10.49 Conduct and canvass of village elections.** All village elections shall be conducted and the result canvassed and certified as in the case of general elections, except as otherwise provided, and shall be governed by the provisions of chapter 6, so far as applicable. Election returns shall be made, to and filed with the village clerk.

10.50 Village to constitute election district. Every village shall constitute a separate election district except as otherwise provided by the village board. [1933 c. 433 s. 3]

10.51 Special elections in villages. The provisions of section 10.40 respecting special and referendum elections, and the functions and duties of common councils of cities and city clerks, shall apply to the conduct of similar village elections and to the functions and duties of village boards and village clerks.

10.52 Town elections. (1) At the town meeting in years in which there is to be a town election there shall be an election by ballot of all town officers except the superintendent or superintendents of highways.

OFFICIAL TOWN BALLOT.

Such ballot shall be in substantially the form provided herein and annexed hereto.

To vote for a person whose name is printed on the ballot, make a cross (X) in the square after the name of the person for whom you desire to vote. To vote for a person whose name is not printed on the ballot, write his name in the blank space provided for that purpose.

CHAIRMAN OF SUPERVISORS —	VOTE FOR ONE
John Doe .....	
John Doe .....	
.....	
SUPERVISOR No. 1 —	VOTE FOR ONE
John Doe .....	
John Doe .....	
.....	
SUPERVISOR No. 2 —	VOTE FOR ONE
John Doe .....	
John Doe .....	
.....	
TOWN CLERK —	VOTE FOR ONE
John Doe .....	
John Doe .....	
.....	
TOWN TREASURER —	VOTE FOR ONE
John Doe .....	
John Doe .....	
.....	
TOWN ASSESSOR —	VOTE FOR ONE
John Doe .....	
John Doe .....	
.....	
JUSTICE OF PEACE (For Two Years) —	VOTE FOR ONE
John Doe .....	
John Doe .....	
.....	
JUSTICE OF PEACE (One Year) —	VOTE FOR ONE
John Doe .....	
John Doe .....	
.....	
CONSTABLE —	VOTE FOR ONE
John Doe .....	
John Doe .....	
.....	

OFFICIAL TOWN BALLOT  
FOR

Town of .....  
April ....., 19....

Ballot Clerks.

Absent Voter's Ballot issued by  
.....  
Town Clerk.

We certify that the within ballot was marked by us for  
an elector incapable under the law of marking his own  
ballot and as directed by him.

.....  
.....of Election.  
.....  
.....of Election.

(2) Any town may elect the two supervisors jointly, and in that event the official town ballot annexed to subsection (1) shall be modified so that all candidates for supervisor will be given in the same section and the instruction shall read: "Vote for Two." Towns which now elect their supervisors jointly shall continue to do so until the annual town meeting shall adopt the method outlined in subsection (1). [1931 c. 353; 1935 c. 214; 1943 c. 173, 575]

Revisor's Note: The following is the alternative town ballot form. Section 10.52 (2).

TOWN BALLOT

Official Town Ballot

To vote for a person whose name is printed on the ballot, make a cross (X) in the square after the name of the person for whom you desire to vote. To vote for a person whose name is not printed on the ballot, write his name in the blank space provided for that purpose.

Chairman of Supervisors—	Vote for one
John Doe.....	
John Doe.....	
.....	
Supervisors—	Vote for two
John Doe.....	
.....	
.....	

Town Clerk—	Vote for one
John Doe.....	
John Doe.....	
.....	
Town Treasurer—	Vote for one
John Doe.....	
John Doe.....	
.....	
Town Assessor—	Vote for one
John Doe.....	
John Doe.....	
.....	
Justice of Peace—	Vote for one
John Doe.....	
John Doe.....	
.....	
Constable—	Vote for one
John Doe.....	
John Doe.....	
.....	

Note: Town clerks will print on back of this ballot the regular ballot clerk indorsement form used on all town ballots.

10.53 Annual town meeting; place; conduct of elections. (1) The annual town meetings in each town shall be held at the place where the last town meeting was held, or

at such other place therein, or in a city or incorporated village in the county and convenient to the town, as shall have been ordered at a previous meeting; or when there has been no such previous meeting, at such place as shall be directed in the act or proceedings by which the town was organized.

(2) Not less than four nor more than six weeks before any annual town meeting the town board by recorded resolution may direct, and any twelve electors of the town may file with the town clerk a petition praying, that the question of changing the place of holding town meetings in such town be submitted to a vote of the electors at any regular town meeting. Every such resolution or petition shall designate and describe with reasonable certainty the place to which the change is desired, which shall be a place within the town or within a city or incorporated village as provided in subsection (1) of this section.

(3) Within one week after the recording of such resolution or the filing of such petition the town clerk shall post notices containing the substance of such resolution or petition and stating that the place of holding the annual town meeting will be decided by ballot at the town meeting then next to be held, in not less than four public places in said town.

(4) The town board shall provide at the expense of the town a suitable number of printed ballots in the form prescribed by section 6.23 for referendum voting and deliver the same to the town clerk before the opening of the election at which they are to be used and the clerk shall keep them in a convenient and conspicuous place in the building where the election is held, for the use of the electors.

(5) If a majority of the votes cast upon the question be in favor of changing the place of holding town meetings, then, and not otherwise, all general and judicial elections and town meetings thereafter held, shall be held at the place designated in said resolution or petition and approved by the electors.

(6) In towns which are divided into election districts the annual meeting shall be held, until the electors otherwise determine, in the districts designated as the first election district; provided, that in counties having a population of two hundred thousand inhabitants or over, according to the last census, votes for town and judicial officers shall be cast at the polling booths in the election district where the voter resides in the manner provided for general elections.

**10.54 Special town elections.** Special town elections may be called to enable the electors to vote upon any question lawfully submitted to them for determination, in the same manner that special town meetings are called.

**10.55 Laws applicable to town and special town elections.** The qualification of electors, the creation and qualification of inspectors and clerks of election, their oath of office, the opening and closing of the polls, the challenging of voters, the determination of such challenges, the opening of ballot boxes, the counting of the ballots before unfolding them, the keeping of tally sheets, the counting of the votes, the determination of the result and all other election procedure at and for town elections or special town elections shall be governed by the provisions of chapter 6 of the statutes, so far as applicable and not otherwise provided in this chapter.

**10.56 Town clerks to exercise election functions.** (1) The functions and duties prescribed for village clerks in respect to village elections by section 10.48 shall be exercised and performed by town clerks for town elections; and the provisions of said section shall apply to every town election except as otherwise specially provided.

(2) Whenever a justice of the peace is to be elected to fill a vacancy, and also one or more such justices are to be elected for full terms, the ballot shall be made to distinguish the person or persons voted for to fill the vacancy.

(3) In towns containing two or more election districts the ballots provided by the town clerk shall be delivered to the inspectors of election at each polling place prior to the opening of the polls at the election for which they have been prepared.

**10.57 Canvass of town elections.** At the close of every election the votes given by ballot shall be publicly canvassed by the inspectors at the place where the meeting was held, which canvass when commenced shall be continued without adjournment or intermission until the same shall be completed.

**10.58 Announcement of results of town elections.** The canvass being completed and the result ascertained and determined by the inspectors, the clerk shall publicly read to the meeting the names of the persons for whom votes for each office were given and the number of votes so given for each person, and the names of the persons declared to be duly elected by the inspectors to each office respectively; and such reading shall be deemed sufficient notice to every person elected to any office at such meeting of his election whose name has been entered on the poll list as a voter.

**10.59 Certified statement of results of town elections.** The inspectors shall also draw up a statement in writing, setting forth in words at full length the whole number of votes given for each office, the names of the persons for whom such votes were given and the number of votes given for each person, and certify upon such statement their determination of the persons elected, which statement and certificate of determination shall be left with the town clerk and recorded in his office and carefully preserved by him.

**10.60 Plurality rule at town elections.** The persons having received the greatest number of votes given for any office at such election shall be deemed and declared duly elected; and if two or more shall have received the greatest and an equal number of votes for the same office the inspectors of election shall determine the choice by lot, which lots shall be drawn by the persons receiving the equal number of votes; or in the absence of one or both of such persons or their refusal to draw by lot, the inspectors shall appoint a competent person to draw the same for them, and shall declare and certify the same accordingly.

**10.61 Separate ballot box for proposals voted on at town meetings.** If any proposition other than the election of officers be voted upon by ballot at any town meeting the ballots cast upon such proposition shall be provided by the town clerk and be deposited in a separate ballot box in the form and manner provided by section 6.23 and a separate poll list kept of the electors voting upon such proposition. The ballots so cast shall be counted and canvassed and the result ascertained, declared and certified in like manner as in the case of ballots cast for officers.

**10.62 Town board of canvassers.** The members of the town board of any town divided into 2 or more election districts or a majority of them, together with the town clerk of such town, shall constitute the canvassing board of such town, except that no member of the town board and no town clerk whose election to office is involved in recount proceedings shall act as a member of such board of canvassers in such recount proceedings. A justice of the peace of the town shall act as a member of such board of canvassers in the place of any member of such board who shall become disqualified hereunder to act thereon. Such board shall meet at the town hall within 24 hours after the closing of the polls at every town election in such town and then and there publicly canvass all statements theretofore delivered to said clerk by the inspectors of election as provided in section 10.59, and ascertain, determine and declare the result of such election; and it shall be the duty of said town clerk to forthwith read publicly the names of the persons for whom votes for each office were given, the number of votes so given for each person, and the name of the person declared to be duly elected to each office respectively. Such reading shall be deemed sufficient notice to every person elected to any office at such meeting of his election. [1945 c. 200]

**10.63 Milwaukee county board of election commissioners.** There is created a "County Board of Election Commissioners" for each county containing a city of the first class, composed of three members, who shall be appointed as follows: The chairman of the county board of such county shall appoint three members for terms of one, two and three years, respectively, dating from July first, 1915, and until their successors are commissioned and qualified. Successors shall be elected at the expiration of each term by the county board from a list containing not less than three names, selected and approved by the respective county committees of the three dominant political parties in such county, and their terms of office shall be three years in all cases, beginning July first in the year in which they are elected and until their successors are commissioned and qualified. The board shall be composed of one member from each of the three dominant political parties, as shown by the returns of the vote for governor in such county for the last preceding general election, and elections shall be made in accordance with this rule. The board shall choose its own chairman. Such commissioners shall be legal voters, and residents of the state for at least five years, and of the county for a like period of time. They shall hold no other public office, the offices of notary public and city election commissioner excepted, and shall be ineligible to any other elective or appointive public office while members of such board, and shall, before entering upon the duties of county election commissioners, make and file in the office of the county clerk the constitutional oath of office. [1937 c. 48; 1939 c. 301]

**10.64 Powers and duties; salaries.** Said county board of election commissioners shall have all such authority, duties and power in regard to the preparation, distribution, custody and canvass of ballots and notices of election and in regard to the conduct of and control over any and all elections which are now vested in the county board, the county board of canvassers for general elections and primaries, the county clerk or any other county officers. The county commissioners of election shall receive such salaries as the

county board of such county shall determine, provided that if a commissioner is appointed as a member of both the city election commission and county election commission, he shall receive but one salary, one-half of which shall be paid by the county and one-half by the city.

**10.65 Secretary of board.** Said board shall have power to employ a secretary who shall perform such duties as may be required of him by the said board of election commissioners, and he shall receive such salary as the board shall determine; and in case the same person is also secretary of the city board of election commissioners, he shall receive but one salary, one-half of which shall be paid by the county and one-half by the city.

**10.66 Seal; clerks; quarters and supplies.** The said board of election commissioners may procure a seal with which to authenticate official papers and documents and said board is authorized to employ such additional clerical assistants as shall be necessary from time to time, who shall receive such compensation as the county board shall determine. The county board shall arrange for office room for the said board of election commissioners; and all expenses incurred under sections 10.63 to 10.70 shall be paid by the county. The act of a majority of said county board of election commissioners shall be considered the act of said board. [1941 c. 59]

10.67 [Renumbered section 17.10 by 1919 c. 362 s. 22]

**10.68 Co-operation of officials.** It shall be the duty of all officers and departments in counties governed by the provisions of sections 10.63 to 10.70, inclusive, to co-operate with the said board of election commissioners in carrying out the provisions of said sections.

**10.69 Liberal construction.** Sections 10.63 to 10.70, inclusive, shall be liberally construed so that its purpose may not be defeated by any informality or failure to comply with the several provisions in respect to either the giving of notices or keeping within the exact period of time provided herein.

**10.70 Penalty for neglect of duty.** Any public officer who shall wilfully fail or neglect to perform any duty imposed upon him by the provisions of sections 10.63 to 10.70, inclusive, or knowingly make false certificate in respect to such duty or to any matter to which he may be required by law to officially certify, shall be punished by imprisonment in the county jail or house of correction in such county for a period not exceeding nine months or by a fine of not more than five hundred dollars and the costs of prosecution.