Preparing Your Order and Notice

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Texas Secretary of State
CSO Spring 2021 Webinar

1/19/2021 Texas Secretary of State Elections Division

What We Will Discuss

• Order of Election
  – What is an order of election
  – Who orders an election
  – What does the order contain
  – When do you order an election
  – Things to Consider for Special Elections

• Notice of Election
  – What is a Notice of Election
  – What does the notice contain
  – Where do you post notice it

• Differences
ORDERING AN ELECTION

What is an Order of Election?

- An Order of Election is the official action required by a governing body to hold an election.
  - NOTE: Failure to order a general election does not affect the validity of the election [Sec. 3.007]
  - HOWEVER, a special election may not be held without the governing body first ordering the election.
- Sample Forms
  - Order of Election for Municipalities (PDF)
  - Order of Election for Other Political Subdivisions (Including Schools) (PDF)
Who Orders an Election?

- Governor will order the election for statewide offices and federal offices. [Sec. 3.003]
- County Judge will order the election for county and precinct offices. [Sec. 3.004]
- Local Entities will order their own elections.

What Does the Order Contain?

The order must include:
1. The date of the election;
2. The offices or measures to be voted on;
3. The location of the main early voting polling place;
4. The dates and hours for early voting (recommended for counties and cities, but required for all other entities). (Cities must include the two designated weekdays for which early voting will be held for 12 hours);
5. The dates and hours of any Saturday and Sunday early voting (if applicable, it is recommended that this information be included in the order for counties and cities, but it must be included for all other entities);
6. The early voting clerk’s official mailing address;
7. Recommended: Branch early voting polling places
Additional Requirements

• Cities must choose two weekdays for the main early voting polling place to be open for 12 hours during the regular early voting period, if the early voting period consists of more than six weekdays [Sec. 85.005(d)]

• All Political Subdivisions, Except Counties & Cities: Voting on ANY Saturday or Sunday must be included in the order and notice of election. The order and notice must include the dates and hours of Saturday or Sunday voting. [Secs. 85.006, 85.007]

• If you order a special election to fill a vacancy, the order must include the filing deadline
  – NOTE: an application for a place on the ballot for a special election may NOT be filed before the special election is ordered

Additional Requirements: Bond Elections

• An order for a debt obligation (bond) election must include:
  – the proposition language that will appear on the ballot;
  – the purpose for which the debt obligations are to be authorized;
  – the principal amount of the debt obligations to be authorized;
  – that taxes sufficient to pay the annual principal of and interest on the debt obligations may be imposed;
  – a statement of the estimated tax rate if the debt obligations are authorized or of the maximum interest rate of the debt obligations or any series of the debt obligations, based on the market conditions at the time of the election order;
  – the maximum maturity date of the debt obligations to be authorized or that the debt obligations may be issued to mature over a specified number of years not to exceed 40;
  – the aggregate amount of the outstanding principal of the political subdivision’s debt obligations as of the beginning of the political subdivision’s fiscal year in which the election is ordered;
  – the aggregate amount of the outstanding interest on debt obligations of the political subdivision as of the beginning of the political subdivision’s fiscal year in which the election is ordered; and
  – the ad valorem debt service tax rate for the political subdivision at the time the election is ordered, expressed as an amount per $100 valuation of taxable property.
Additional Requirements: Charter Amendment

• The Order of Election must include the measure
  – This means the thing that is being voted upon; that is, the complete amendment.

Additional Requirements: Local Option Liquor Election

• The order must state, both in its heading and text, whether the election is for the purpose of legalizing or prohibiting the sale of beverages as set out in the petition.
• The order must state the issue to be voted on (which must be the same as the issue on the petition).
• The order must state the polling place for each election precinct.
• For city liquor elections, only the city election precincts need to be stated in the order.
• The early voting polling places and polling hours shall be stated in the order calling the election.
• The order must state the county clerk’s, election administrator’s or city secretary’s, as applicable, mailing address to which ballot applications and ballots voted by mail may be sent.
When to Order an Election: Important Deadlines

• Wednesday, January 13, 2021 – first day to file an application for a place on the ballot or a declaration of write-in candidacy
  – NOTE: We are often asked how filing can begin if you have not yet ordered the general election. You do not need to order your general (regularly occurring) election in order for the filing period to begin.

• Friday, February 12, 2021 – Deadline for political subdivisions to order a general election or a special election on a measure to be held on Saturday, May 1, 2021
  – The deadline to order a special election to fill a vacancy is slightly different.

Somethings to Consider: Special Elections

• Calling your special as part of your general
  – Common example: city council has a vacancy, an appointment is made by majority of members. Appointee serves until next regular election. The office then goes on the ballot for any unexpired portion of the term.
  – Allows you to have consistent filing periods
Somethings to Consider: Special Elections

- Special Election ordered separately
  - Different filing deadlines [Sec. 201.054]
    - If election day is on or after the 70th day after the date the election is ordered: 5 p.m. of 62nd day before election day
    - If election day is on or after the 46th day and before the 70th day the election is ordered: 5 p.m. of the 40th day before election day
  - Gives the entity the ability to possibly cancel an election
    - For cancellation purposes, a special election of a political subdivision is now considered to be a separate election from a general election held the same day by the same political subdivision.
      - Example: Measure Election
      - Example: Special Election to Fill a Vacancy

Statutory Authority for Cancellation

- Section 2.051 allows a political subdivision to cancel an election if:
  - Members of the governing body are elected from territorial units (i.e. single-member districts); AND
  - Each candidate is unopposed and no at-large proposition or at-large opposed race appears on the ballot;
- Section 2.051 allows cancellation in a particular territorial unit even if there is an opposed race in another territorial unit (i.e. another single-member district)
What is a Notice of Election?

- One of various election-related notices; intended to inform the voting public about an upcoming election.
- It is NOT the same thing as your Order of Election!
- Sample Forms
  - Notice of General Election for Cities (PDF)
  - Notice of General Election for Other Political Subdivisions (Including Schools) (PDF)
IMPORTANT

- The governing body of a political subdivision must deliver notice of the election to the county election officer and voter registrar of each county in which the political subdivision is located not later than the 60th day before election day, Tuesday, March 2, 2021.

- Counties: Section 4.003 requires that counties post on the county website the notice and list of polling locations of any political subdivision that delivers their notice to the county under 4.008. This is regardless of whether the county is contracting with the entity.

What does the Notice of Election Contain?

Election Notice must state:
- The type and date of the election;
- The location of each polling place, including the street address, room number, and building name;
- The hours the polls will be open;
- The location of the main early voting polling place, including the street address, room number, and building name;
- The regular dates and hours for early voting by personal appearance;
- The dates and hours of any Saturday or Sunday early voting, if any; and
- The early voting clerk’s mailing address

Recommended: Include branch locations, dates, and hours

Recommended that the notice also include the email address at which the early voting clerk may receive applications for a ballot by mail

Additionally, the notice must be posted on your website!

[Secs. 1.021, 4.004, 85.007]
Additional Requirements: Bond Election

• Entities holding bond elections must provide additional notice per Section 4.003(f). A debt obligation order under Section 3.009 must be posted:
  – On election day and during early voting by personal appearance, in a prominent location at each polling place.
  – Not later than the 21st day before the election, in three public places in the boundaries of the political subdivision holding the election.
  – During the 21 days before the election, on the political subdivision’s Internet website, prominently and together with the notice of the election, a copy of the sample ballot, and the contents of the proposition, if the political subdivision maintains an Internet website.

Additional Requirements: Charter Amendment

• The Notice of Election must include a substantial copy of the amendment itself
• Notice of the election shall be published in a newspaper of general circulation published in the municipality. The notice must:
  – include a substantial copy of the proposed amendment;
  – include an estimate of the anticipated fiscal impact to the municipality if the proposed amendment is approved at the election; and
  – be published on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election.

Local Government Code 9.004
Additional Requirements: Local Option Liquor Election

• If a city council or county commissioners’ court ordering the election wishes to provide notice in addition to the mandatory methods described above, one or more of the following optional methods may be used:
  – Notice may be posted in each election precinct in which the election is to be conducted by the 21st day before election day; or
  – Notice may be mailed to each registered voter of the territory covered by the election by the 10th day before election day.

• For Cities: Section 501.103(b) of the Code provides that in municipal local option liquor elections, the notice must also identify (by number) which county voting precincts are contained in all or in part within the territory of the city.

Where Do You Post the Notice?

• Political subdivisions other than cities and school districts may have specific statutory notice requirements.
• In the absence of specific statutory requirements, such political subdivisions must post a notice on or before the 21st day before the election. For the Saturday, May 1, 2021 election, this notice must be posted on or before Saturday, April 10, 2021. The general rule is that, additionally, notice must be given using one of the following methods:
  – By posting a notice in each election precinct in which the election is to be held on or before the 21st day before the election, Saturday, April 10, 2021. [Sec. 4.003(a)(2)].
  – By publishing the notice at least once between the 30th day and the 10th day before the election, Thursday, April 1, 2021–Wednesday, April 21, 2021. [Sec. 4.003(a)(1)].
  – By mailing a copy of the notice to each registered voter of the territory covered by the election, not later than the 10th day before election day, Wednesday, April 21, 2021. [Sec. 4.003(a)(3)].
Additional Posting Requirements

• **All Political Subdivisions**: The election notice shall be posted on the political subdivision’s website, if the political subdivision maintains a website.

• **Cities and School Districts**: Cities and school districts are required to publish their notice in a newspaper and may also give any additional notice. Counties, school districts, and cities must also publish notice on the governmental bulletin board used for posting notice of public meetings.

• Remember, the notice must also be provided in Spanish, and any other required minority languages.

SO WHAT’S THE DIFFERENCE?
# Notice of Election

<table>
<thead>
<tr>
<th>Order or Election</th>
<th>Notice of Election</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who signs the document?</td>
<td>Signed by the governing body</td>
</tr>
<tr>
<td>Deadline</td>
<td>78th day before election day, unless otherwise provided</td>
</tr>
<tr>
<td>Publication</td>
<td>Must be posted on the entity's website</td>
</tr>
<tr>
<td>Date of the Election</td>
<td>✓</td>
</tr>
<tr>
<td>Type of Election</td>
<td>✓</td>
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Questions?

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