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**THE**  
**COLORADO MUNICIPAL**  
**ELECTION CODE**



**MARY ESTILL BUCHANAN, *Secretary of State***

**Denver, Colorado**

**1981**

Office of  
**SECRETARY OF STATE**  
State of Colorado

MARY ESTILL BUCHANAN . . . Secretary of State  
BETTY M. CHRONIC . . . . . Elections Director  
PAULINE C. FRIEND . . . . . Elections Officer

**DIVISION OF LICENSING AND ELECTIONS**  
Room 211, 1575 Sherman  
Denver, Colorado 80203  
Phone (303) 866-2041

**Price \$2.00**

TITLE 31  
GOVERNMENT - MUNICIPAL

MUNICIPAL ELECTION CODE

Article 10  
Municipal Election Code

PART 1  
DEFINITIONS AND GENERAL PROVISIONS

31-10-101. Short title. This article shall be known and may be cited as the "Colorado Municipal Election Code of 1965".

31-10-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Clerk" means the clerk of the municipality who is the custodian of the official records of the municipality or any person delegated by the clerk to exercise any of his powers, duties, or functions.

(2) "Election official" means any clerk, election commission, judge of election, or municipal governing body engaged in the performance of election duties as required by this article.

(3) "Electronic voting system" means any ballot card electronic voting system meeting the requirements set forth in section 1-6-608, C.R.S. 1973.

(4) "Pollbook" means the list of voters to whom ballots are delivered or who are permitted to enter a voting machine booth for the purpose of casting their votes at a municipal election. Names shall be entered in the pollbook in the order in which the ballots are delivered at the polls or in the order in which voters are permitted to enter a voting machine booth for the purpose of casting their votes.

(5) "Population" means population as determined by the latest federal census.

(6) "Registration book" means all of the registration sheets for each general election precinct arranged alphabetically according to surnames and bound together in book form.

(7) "Registration list" means the list of registered electors of each municipal election precinct prepared by the county clerk and recorder from the county registration books in accordance with section 31-10-205.

(8) "Registration sheet" means the record on which is entered the official registration and identification of an individual elector and a list of the elections at which he has

voted since the date of registration.

(8.5) "Residence" means the principal or primary home or place of abode of a person as set forth in section 31-10-201 (3).

(9) "Voter" means a registered elector who has presented himself at a polling place to vote in any regular or special election.

(10) "Voting machine" means any device fulfilling the requirements for voting machines set forth in part 4 of article 7 of title 1, C.R.S. 1973, regarding its use, construction, procurement, and trial.

(11) "Watcher" means a registered elector of the municipality whose name has been submitted to the clerk and then certified by the clerk to the appropriate election judges to serve at the polling place with the right to remain inside the polling place from at least fifteen minutes prior to the opening of the polls until after the completion of the count of votes cast at the election and the certification of the count by the judges. Each watcher has the right to maintain a list of voters as the names are announced by the judges and to witness each step in the conduct of the election.

31-10-103. Computation of time. Calendar days shall be used in all computations of time made under the provisions of this article. In computing time for any act to be done before any municipal election, the first day shall be included, and the last, or election, day shall be excluded. Sundays and legal holidays shall be included, but, if the time for any act to be done falls on Sunday or a legal holiday, such act shall be done upon the day following such Sunday or legal holiday. If the time for ending the circulation of and filing nomination petitions provided by section 31-10-302, the time for withdrawing from nomination provided by section 31-10-303 (1), the time prior to which vacancies in nominations may be filled and by which certificates of nomination or petitions to fill such vacancies may be filed as provided by section 31-10-304, or the time for filing amended or new petitions to remedy objections as provided by section 31-10-305 falls on Saturday, Sunday, or a legal holiday, such act shall be done upon the preceding day which is not a Saturday, Sunday, or legal holiday.

31-10-104. Powers of clerk and deputy. (1) Except where otherwise provided in this article, the clerk shall render all interpretations and shall make all initial decisions as to controversies or other matters arising in the operation of this article.

(2) All powers and authority granted to the clerk by this article may be exercised by a deputy clerk in the absence of the clerk or in the event the clerk for any reason is unable to perform his duties.

31-10-105. Election commission. The election commission in municipalities having such commission has all the powers and jurisdiction and shall perform all the duties provided by this article with respect to clerks and governing bodies, but the election commission does not have the authority to call a special election.

31-10-106. Copies of election laws and manual provided. At least thirty days before any regular election, the secretary of state shall prepare and transmit a sufficient number of copies of the municipal election laws of the state and of a simplified manual of election procedures to the clerk of each municipality to be distributed to the judges of election in each municipal election precinct. Each set of judges shall receive at least one copy of the municipal election laws, and each judge shall receive at least one copy of the simplified manual.

31-10-107. Forms prescribed. Except as otherwise provided by this article, the secretary of state shall prescribe the forms required by this article, which shall be substantially followed by clerks, judges of election, and other election officials.

31-10-108. Special elections. Special elections shall be held on any Tuesday designated by the governing body. No special election shall be held within the ninety days preceding a regular election. No special election shall be called within thirty days before the date thereof, nor shall any special election be held within the thirty-two days before or after the date of a primary, general, or congressional vacancy election. A special election may be held at the same time and place as a primary, congressional vacancy or general election pursuant to section 1-1-109 (3), C.R.S. 1973. Special elections shall be conducted as nearly as practicable in the same manner as regular elections.

## PART 2 QUALIFICATIONS AND REGISTRATION OF ELECTORS

31-10-201. Qualifications of municipal electors.  
(1) Every person who has attained the age of eighteen years possessing the following qualifications is entitled to register to vote at all municipal elections:

(a) He is a citizen of the United States.

(b) He has resided in this state for thirty-two days and in the municipal election precinct for thirty-two days immediately preceding the election at which he offers to vote. An otherwise qualified and registered elector who moves from the municipal election precinct where registered to another precinct within the same municipality within thirty-two days prior to any regular or special election shall be permitted to cast his ballot for such election at the polling place in the precinct where registered.

(2) No person confined in any public prison is entitled to

register or to vote at any regular or special election. Every person who was a qualified elector prior to such imprisonment and who is released by pardon or by having served his full term of imprisonment shall be vested with all the rights of citizenship except as otherwise provided in the state constitution.

(3) The judges of election, in determining the residence of a person offering to vote, shall be governed by the following rules, so far as they may be applicable:

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

(b) A person shall not be considered to have lost his residence if he leaves his home and goes into another state or territory or another county or municipality of this state merely for temporary purposes with an intention of returning.

(c) A person shall not be considered to have gained a residence in this state or in any municipality in this state while retaining his home or domicile elsewhere.

(d) If a person moves to any other state or territory with the intention of making it his permanent residence, he shall be considered to have lost his residence in the municipality from which he moved.

(e) If a person moves from one municipality in this state to any other municipality in this state with the intention of making it his permanent residence, he shall be considered and held to have lost his residence in the municipality from which he moved.

(4) (a) For the purpose of voting and eligibility to office, no person is deemed to have gained a residence by reason of his presence or lost it by reason of his absence while in the civil or military service of this state or of the United States, nor while a student at any institution of higher education, nor while kept at public expense in any public prison or state institution unless the person is an employee or a member of the household of an employee of such prison or institution.

(b) The provisions of paragraph (a) of this subsection (4)

notwithstanding, no person otherwise qualified under the provisions of this article shall be denied the right to vote at any municipal election solely because he is a student at an institution of higher education if such student, at any time when registration is provided for by law, files with the county clerk and recorder a written affidavit under oath, in such form as may be prescribed, that he has established a domicile in this state, that he has abandoned his parental or former home as a domicile, and that he is not registered as an elector in any other municipality of this state or of any other state. The fact that such affidavit has been filed shall be noted in the registration book.

(c) No provisions of this subsection (4) shall apply to the determination of residence or nonresidence status of students for any college or university purpose.

31-10-202. Submission of question to qualified taxpaying electors - oath. (1) On any question which is required by law to be submitted to qualified taxpaying electors only, if the question is submitted on paper ballots, such ballots shall be deposited in a separate ballot box reserved for that purpose. If the question is submitted on voting machines, provision shall be made to assure that only registered taxpaying electors are permitted to vote on such question. If the question is to be submitted in precincts using an electronic voting system, provision shall be made to assure that only registered taxpaying electors are permitted to vote on such question.

(2) The governing body, in its discretion, may require each registered taxpaying elector desiring to vote on a question which is submitted to qualified taxpaying electors only to sign a written oath that he has, during the twelve months next preceding the election, paid an ad valorem tax upon property situated within the municipality and owned by said person. If said elector is unable to write, he may request assistance from one of the judges of election, and such judge shall sign and witness said elector's mark.

31-10-203. Registration required. (1) Except where a statute specifically provides otherwise, no person shall be permitted to vote at any municipal election without first having registered within the time and in the manner required by this section and sections 31-10-204 and 31-10-205.

(2) Registration requirements for municipal elections shall be the same as those governing general elections. Registration with the county clerk and recorder shall constitute registration for municipal elections.

(3) Where a statute specifically allows persons who have qualifications different from registered electors to vote on a particular measure, the governing body may require that each such person desiring to vote sign a written oath before voting that he



meets each qualification required to vote on the measure.

31-10-204. Municipal clerk as deputy county clerk and recorder. Each clerk shall serve as a deputy county clerk and recorder for purposes of registration only in the county in which his municipality is located. The clerk shall register any qualified elector residing in any precinct in such county who appears in person at his office at any time during which registration is permitted in the office of the county clerk and recorder except the thirty-one days preceding any municipal election. The clerk shall deliver the new registration sheets to the office of the county clerk and recorder either in person or by certified mail on or before the fifteenth day of each month and in person on the day following the last day for registration preceding any election for which registration is required.

31-10-205. Registration lists. The county clerk and recorder of each county, no later than the fifth day preceding any municipal election in his county, shall prepare a complete copy of the list of the registered electors of each municipal election precinct which is located within his county and is involved in such municipal election; but in any municipal election precinct consisting of one or more whole general election precincts, the county registration books for such precinct may be used in lieu of a separate registration list. The registration list for each municipal election precinct shall contain, in alphabetical order, the names and addresses of all registered electors residing within the municipal election precinct whose names appeared on the county registration records at the close of business on the thirty-second day preceding the municipal election. The county clerk and recorder shall certify and deliver such registration lists or registration books to the respective clerks on or before the fifth day preceding the election.

31-10-206. Delivery and custody of registration book or list. (1) Prior to the delivery of the registration books or registration lists to the judges of election for use on election day, the clerk shall attach to each book or list his certificate stating that such book or list contains the registration sheets or names of all registered electors residing in the municipal election precinct and stating the total number of registration sheets or names contained therein.

(2) At such time as may be set by the clerk, but at least one day prior to the election, one of the judges of election from each precinct may call in person at the office of the clerk for the purpose of receiving the registration book or list and election supplies, or the clerk may deliver the same to one of said judges. The registration book or list shall be delivered to said judge in a sealed envelope or container. Said judge shall have custody of the registration book or list and shall give his receipt therefor. After the closing of the polls on the day of election, he shall seal the registration book or list and deliver

it to the election judge selected to deliver the election returns, registration book or list, ballot boxes, if any, and other election papers and supplies to the office of the clerk or to such other place as the clerk may designate as the counting center.

31-10-207. Questions answered by elector. It is the duty of the clerk to ask each person making application for registration, and said person shall answer correctly, the matters contained in section 1-2-203, C.R.S. 1973.

### PART 3 NOMINATIONS

31-10-301. Electors eligible to hold municipal office. Every qualified elector eighteen years of age or older on the date of the election may be a candidate and hold office in any municipality, unless another age is required by local charter or ordinance, if he has resided in the municipality or municipality and ward, as the case may be, from which he is to be elected for a period of at least twelve consecutive months immediately preceding the date of the election. In case of an annexation, any person who has resided within the territory annexed for the prescribed time shall be deemed to have met the residence requirements for the municipality and precinct to which the territory was annexed.

31-10-302. Nomination of municipal officers. (1) Candidates for municipal offices shall be nominated, without regard to political party affiliation, by petition on forms supplied by the clerk. A petition of nomination may consist of one or more sheets, but it shall contain the name and address of only one candidate. The petition may designate one or more persons as a committee to fill a vacancy in such nomination.

(2) Nomination petitions may be circulated and signed beginning on the fiftieth day and ending on the thirtieth day prior to the day of election. Each petition shall be signed by registered electors in the following numbers:

(a) For a candidate in a city, at least twenty-five registered electors residing within the city;

(b) For a candidate from a ward within a city, at least twenty-five registered electors residing in the candidate's ward;

(c) For a candidate in a town, at least ten registered electors residing within the town; and

(d) For a candidate from a ward within a town, at least ten registered electors residing in the candidate's ward.

(3) Each registered elector signing a petition shall add to his signature his place of residence. The circulator of each

nomination petition shall make an affidavit that each signature thereon is the signature of the person whose name it purports to be and that each signer has stated to the circulator that he is a registered elector of the municipality or municipality and ward, as the case may be, for which the nomination is made. The signature of each signer of a petition shall constitute prima facie evidence of his qualifications without the requirement that each signer make an affidavit as to his qualifications.

(4) No petition is valid that does not contain the requisite number of signatures of registered electors. Any such petition may be amended in this respect at any time prior to fifteen days before the day of election.

(5) No registered elector shall sign more than one nomination petition for each separate office to be filled in his municipality or municipality and ward, as the case may be. Each office of the governing body that is to be filled by the electorate shall be considered a separate office for the purpose of nomination. In municipalities in which offices of the governing body are filled both by election from wards and election at large, an elector may sign a nomination petition for each office to be filled from his ward and also for each office to be filled by election at large.

(6) Each nomination petition shall be filed with the clerk no later than the thirtieth day prior to the day of election. Every such petition shall have endorsed thereon or appended thereto the written affidavit of the candidate accepting such nomination. The acceptance of nomination shall contain the place of residence of the candidate and the name of the candidate in the form that he wishes it to appear on the ballot. The candidate's name may be a nickname or include a nickname but shall not contain any title or degree designating the business or profession of the candidate.

(7) The clerk shall cause all nomination petitions to be preserved for a period of two years. All such petitions shall be open to public inspection under proper regulation by the clerk with whom they are filed.

31-10-303. Withdrawal from nominations. (1) Any person who has been nominated and who has accepted a nomination may cause his name to be withdrawn from such nomination at any time prior to twenty-three days before election by a written affidavit withdrawing from such nomination. The affidavit stating withdrawal shall be signed by the candidate and filed with the clerk.

(2) If the nomination petition designates one or more persons as a committee to fill a vacancy, the clerk shall immediately notify such persons of their candidate's withdrawal. If there is no committee designated, the clerk shall immediately notify the three persons whose names appear at the top of the

nomination petition of the withdrawal of their candidate.

31-10-304. Vacancies in nominations. (1) If any candidate dies or withdraws from the nomination prior to twenty-three days before the day of election, the vacancy may be filled by the vacancy committee, if any, designated on the nomination petition or, if no vacancy committee is designated, by petition in the same manner required for original nomination. If any petition of nomination is insufficient or inoperative because of failure to remedy or cure the same, the vacancy thus occasioned may be filled by petition in the same manner required for original nomination.

(2) Any certificate of nomination or petition to fill a vacancy shall be filed with the clerk not later than the twentieth day before the day of election.

31-10-305. Objections to nominations. All petitions of nomination which are in apparent conformity with the provisions of section 31-10-302, as determined by the clerk, are valid unless objection thereto is duly made in writing within three days after the filing of the same. In case objection is made, notice thereof shall be forthwith mailed to any candidate who may be affected thereby. Said clerk shall decide objections within at least forty-eight hours after the same are filed, and any objections sustained may be remedied or defect cured upon the original petition, by an amendment thereto, or by filing a new petition within three days after such objection is sustained, but in no event later than the eighteenth day before the day of election. The clerk shall pass upon the validity of all objections, whether of form or substance, and his decisions upon matters of form shall be final. His decisions upon matters of substance shall be open to review if prompt application is made, as provided in section 31-10-1401, but the remedy in all cases shall be summary, and the decision of the district court shall be final and not subject to review by any other court; except that the supreme court, in the exercise of its discretion, may review any such proceeding in a summary way.

31-10-306. Write-in candidate affidavit. The governing body of a municipality may provide by ordinance that no write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the clerk by the person whose name is written in prior to five days before the day of the election indicating that such person desires the office and is qualified to assume the duties of that office if elected.

#### PART 4 JUDGES AND CLERKS

31-10-401. Appointment of election judges. At least fifteen days before each municipal election, the governing body shall appoint the judges of election. Each judge of election shall be a registered elector of the precinct in which he is

appointed to serve and shall be at least eighteen years of age. The clerk shall make and file in his office a list of all persons so appointed, giving their names, addresses, and precincts. Such list shall be a public record and shall be subject to inspection and examination during office hours by any qualified elector of the municipality with the right to make copies thereof. The governing body may by resolution delegate to the clerk the authority and responsibility to appoint judges of election.

31-10-402. Number of judges. The governing body, or the clerk if authorized pursuant to section 31-10-401, shall appoint for each municipal election precinct at least three judges of election and such additional judges as deemed necessary.

31-10-403. Certificates of appointment. Immediately after the appointment of the judges of election, the clerk shall issue certificates under his official seal certifying such appointments in each precinct. He shall mail one certificate to each person appointed.

31-10-404. Acceptances. With each certificate of appointment transmitted by the clerk to the judges of election, there shall be enclosed a form for acceptance of the appointment. Each person appointed as an election judge shall file his acceptance in the office of the clerk within seven days after the mailing by the clerk of the certificate of appointment and the acceptance form. Failure of any person appointed as a judge of election to file an acceptance within said seven days shall result in a vacancy. Such vacancy shall be filled in the same way the original appointment was made.

31-10-405. Vacancies. If for any reason any person appointed as a judge of election refuses, fails, or is unable to serve, it is the duty of such person or any other judge of election to immediately notify the clerk. The clerk shall forthwith appoint another person in such precinct to serve in the place of such person. If no person in the precinct is available to fill the vacancy, the clerk shall appoint any registered elector of the municipality.

31-10-406. Removal of judges. Any judge of election who has neglected his duty, or has committed, encouraged, or connived at any fraud in connection therewith, or has violated any of the election laws, or has knowingly permitted others to do so, or has been convicted of any felony, or has violated his oath, or has committed any act which interferes or tends to interfere with a fair and honest election shall be summarily removed by the clerk.

31-10-407. Oath of judges. (1) Before any votes are taken at any municipal election, the judges of election shall severally take an oath or affirmation in the following form:

"I, . . . , do solemnly swear (or affirm) that I am a citizen of the United States and the state of Colorado; that I am a

registered elector in municipal precinct .... in the municipality of ....; that I will perform the duties of judge according to law and the best of my ability; that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same; that I will not try to ascertain how any elector voted, nor will I disclose how any elector voted if, in the discharge of my duties as judge, such knowledge shall come to me, unless called upon to disclose the same before some court; and that I will not disclose the result of the votes until the polls have closed."

(2) The judges of election may administer the oaths or affirmations to each other. Each judge shall record and sign any such oaths or affirmations administered by him and shall attach the record to the pollbook.

31-10-408. Compensation of judges. The judges of election at any municipal election shall receive in full compensation for their services as judges of election not less than five dollars and not more than the maximum amount allowed by statute for payment to the judges of the general election of the state of Colorado, as determined by the governing body of the municipality.

31-10-409. Compensation for delivery of election returns and other election papers. The judges of election in each precinct shall select one of their number to deliver the election returns, registration book or list, ballot boxes, if any, and other election papers and supplies to the office of the clerk or to such other place as the clerk may designate as the counting center. The judge so selected shall be paid not more than four dollars for the performance of such service.

## PART 5 NOTICE AND PREPARATION FOR ELECTIONS

31-10-501. Clerk to give notice. (1) The clerk, at least ten days before each municipal election, shall give written or printed notice of the election stating the date of the election and the hours during which the polls will be open, designating the polling place of each precinct, stating the qualifications of persons to vote in the election, naming the officers to be elected and the questions to be voted upon, and listing the names of those candidates whose nominations have been certified to him, which listing shall be as nearly as possible in the form in which such nominations shall appear upon the official ballot with reference to wards where applicable. A copy of such notice shall be posted until after the election in a conspicuous place in the office of the clerk.

(2) In addition, the notice shall be published in at least one newspaper having general circulation in the municipality. If the clerk finds it impracticable to make the publication on the tenth day before the election day, he shall make the same on the earliest possible day before the tenth day. The publications in

any weekly newspaper shall be in the next to last issue thereof before the day of election.

(3) All polling places shall be designated by a sign conspicuously posted at least ten days before each municipal election. Such sign shall be substantially in the following form: "POLLING PLACE FOR PRECINCT NO. ...". In addition, such sign shall state the date of the next election and the hours the polling place will be open.

31-10-502. Establishing precincts and polling places.

(1) (a) The governing body of each municipality shall divide the municipality into as many election precincts for municipal elections as it deems expedient for the convenience of electors of said municipality and shall designate the location and address for each precinct at which elections are to be held. Municipal election precincts shall consist of one or more whole general election precincts wherever practicable, and clerks and governing bodies shall cooperate with the county clerk and recorder and board of county commissioners of their county to accomplish this purpose. In municipalities having wards, no precinct or part thereof shall be located within more than one ward, and each ward shall contain at least one precinct. The precincts shall be numbered consecutively beginning with the number one. The precincts and polling places established pursuant to this section shall remain until changed by the governing body.

(b) Repealed.

(c) Repealed.

(2) (a) Changes in the boundaries of election precincts or wards and the creation of new election precincts shall be completed not less than ninety days prior to any municipal election, except in cases of precinct changes resulting from annexations.

(b) All changes in precinct or ward boundaries and in municipal boundaries shall be reported by the clerk to the county clerk and recorder, and a corrected map shall be transmitted to the county clerk and recorder as soon as possible after such changes have been effected.

(3) It is the duty of the governing body to change any polling place upon petition of a majority of the registered electors residing within the precinct.

31-10-503. Judges may change polling places. (1) When it becomes impossible or inconvenient to hold an election at the place designated therefor, the judges of election, after notifying the clerk and after having assembled at or as near as practicable to such place and before receiving any vote, may move to the nearest convenient place for holding the election and at such newly designated place forthwith proceed with the election.

(2) Upon moving to a new polling place, the judges shall display a proclamation of the change and shall station a police officer or some other proper person at the original polling place to notify all registered electors of the new location for holding the election.

31-10-504. Number of voting booths or voting machines.

(1) In municipalities which use paper ballots, the governing body shall provide in each polling place a sufficient number of voting booths. Each voting booth shall be situated so as to permit voters to prepare their ballots screened from observation and shall be furnished with such supplies and conveniences as will enable the voter to prepare his ballot for voting.

(2) In municipalities which use voting machines, the governing body shall supply each precinct with a sufficient number of voting machines.

(3) In municipalities which use an electronic voting system, the governing body shall provide adequate materials and equipment for the orderly conduct of voting.

31-10-505. Arrangement of voting machines or voting booths and ballot boxes. The voting machines or the voting booths and ballot box shall be situated in the polling place so as to be in plain view of the election officials and watchers. No person other than the election officials and those admitted for the purpose of voting shall be permitted within the immediate voting area, which shall be considered as within six feet of the voting machines or the voting booths and ballot box, except by authority of the judges of election, and then only when necessary to keep order and enforce the law.

31-10-506. Election expenses to be paid by municipality. The cost of conducting a municipal election, including the cost of printing and supplies, shall be paid by the municipality in which such election is held.

31-10-507. Election may be cancelled - when. In any ordinance adopted by the governing body of the municipality requiring an affidavit of intent for write-in candidates as provided in section 31-10-306, the governing body may also provide that, if the only matter before the voters is the election of persons to office and if, at the close of business on the Friday before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent, the clerk shall certify such fact to the governing body, and it shall hold a meeting and may cancel the election and by resolution declare the candidates elected. If so provided by ordinance, upon such declaration the candidates shall be deemed elected. Notice of such cancellation shall be published, if possible, in order to inform the electors of the municipality, and notice of such cancellation shall be posted at each polling place and in not less than one other public place.



PART 6  
CONDUCT OF ELECTIONS

31-10-601. Hours of voting. At all elections held under this article, the polls shall be opened at 7 a.m. and remain open until 7 p.m. of the same day. If a full set of judges of election do not attend at the hour of 7 a.m., an alternate election judge shall be appointed as provided in section 31-10-405. The polls shall be opened if a majority of judges are present, even though the alternate judge has not arrived. Every person, otherwise qualified to vote, who is standing in line waiting to vote at 7 p.m. shall be permitted to vote.

31-10-602. Watchers at municipal elections. Each candidate for office, or interested party in case of an issue, at a municipal election is entitled to appoint some person to act in his behalf in every precinct in which he is a candidate or in which the issue is on the ballot. Such candidate or interested party shall certify the names of the persons so appointed to the clerk on forms provided by the clerk. In case a watcher must leave the polling place, he may designate an alternate to act in his behalf while he is absent, if such alternate is made known to the election judges by an affidavit of the person first named as a watcher.

31-10-603. Employee entitled to vote. (1) Any registered elector entitled to vote at any municipal election held within this state is entitled to absent himself from any service or employment in which he is then engaged or employed on the day of such election for a period of two hours between the time of opening and time of closing the polls. Any such absence shall not be sufficient reason for the discharge of any such person from such service or employment. Such elector, because of so absenting himself, shall not be liable to any penalty, nor shall any deduction be made from his usual salary or wages on account of such absence. Registered electors who are employed and paid by the hour shall receive their regular hourly wage for the period of such absence, not to exceed two hours. Application shall be made for such leave of absence prior to the day of election. The employer may specify the hours during which such employee may absent himself, but such hours shall be at the beginning or ending of the work shift if the employee so requests.

(2) This section shall not apply to any person whose hours of employment on the day of the election are such that there are three or more hours between the time of opening and the time of closing of the polls during which he is not employed on the job.

31-10-604. Judges open ballot box first. In precincts which use an electronic voting system or paper ballots, it is the duty of the judges of the election, immediately before the opening of the polls, to open the ballot box in the presence of the people there assembled and turn it upside down so as to empty

it of everything that may be in it and then lock it securely. It shall not be reopened until the time for counting the ballots therein.

31-10-605. Judge to keep pollbook. A judge of election shall keep a pollbook, which shall contain one column headed "names of voters" and one column headed "number on ballot". The name and number on the ballot of each registered elector voting shall be entered in regular succession under the headings in the pollbook.

31-10-606. Preparing to vote. (1) Any registered elector desiring to vote shall write his name and address on a form available at the polling place and shall give the form to one of the judges of election, who shall thereupon announce the same clearly and audibly. If said elector is unable to write, he may request assistance from one of the judges of election, and such judge must sign the form and witness the elector's mark. The form to be available shall be in substance: "I, . . . , who reside at . . . , am a registered elector of this precinct and desire to vote at this . . . election. Date . . . ." If the name is found on the registration book or the registration list by the election judge having charge thereof, he shall likewise repeat the name, and said elector shall be allowed to enter the immediate voting area. If the name is not found on the registration book or the registration list by the election judge, such election judge, if practicable and not unduly disruptive to the election process, shall attempt to contact the county clerk and recorder's office, by telephone or otherwise, to request oral verification of the elector's registration in that precinct; and, if such oral verification is received by such election judge from the county clerk and recorder's office, such election judge shall record such verification on a form to be provided by the clerk and shall likewise repeat the elector's name, and said elector shall be allowed to enter the immediate voting area. After it is determined that the elector is duly registered, the election official in charge of the pollbook shall write upon the pollbook the name of such elector and, in precincts using paper ballots, the number of the ballot given to such elector.

(2) Besides the election officials, not more than four voters in excess of the number of voting booths or voting machines shall be allowed within the immediate voting area at one time.

(3) The completed signature forms shall be returned with other election materials to the clerk. If no challenges have been made, the forms may be destroyed after forty-five days.

(4) If the judges are using the registration book and the registered elector's signature does not appear on his registration sheet, said elector shall show identification and sign his registration sheet before being allowed to vote. If said elector is unable to write, he may request assistance from

one of the judges of election, and such judge shall sign the registration sheet and witness said elector's mark.

(5) In precincts using paper ballots, an election judge shall give the registered elector one, and only one, ballot, which shall be removed from the package of ballots by tearing the same along the perforated line between the stub and duplicate stub. Before delivering such ballot to said elector, the judge of election having charge of the ballots shall endorse his initials on the duplicate stub, and said judge shall enter the date and the number of said ballot on the registration book or registration list opposite the name of said elector.

31-10-607. Manner of voting in precincts which use paper ballots. (1) In precincts which use paper ballots, upon receiving his ballot, the registered elector shall immediately retire alone to one of the voting booths provided and shall prepare his ballot by marking or stamping in ink or indelible pencil, in the appropriate margin or place, a cross mark (X) opposite the name of the candidate of his choice for each office to be filled; except that no cross mark (X) shall be required opposite the name of a write-in candidate. In case of a question submitted to a vote of the people, said elector shall mark or stamp, in the appropriate margin or place, a cross mark (X) opposite the answer which he desires to give. Before leaving the voting booth, said elector shall fold his ballot without displaying the marks thereon, so that the contents of the ballot are concealed and the stub can be removed without exposing any of the contents of the ballot, and he shall keep the same so folded until he has deposited his ballot in the ballot box.

(2) Each registered elector who has prepared his ballot and is ready to cast his vote shall then leave the voting booth and approach the judge of election having charge of the ballot box. He shall give his name to that judge, who shall announce the name of such elector and the number upon the duplicate stub of his ballot, which number must correspond with the stub number previously placed on the registration book or registration list. If the stub number of the ballot corresponds and is identified by the initials of the judge of election placed thereupon, the judge of election shall then remove the duplicate stub from such ballot. Such ballot shall then be returned to the registered elector, who shall thereupon, in full view of the judges of election, cast his vote by depositing the ballot in the ballot box, with the official endorsement on said ballot uppermost.

(3) Each registered elector shall mark and deposit his ballot without undue delay and shall leave the immediate voting area as soon as he has voted. No such elector shall occupy a voting booth already occupied by another, nor remain within the immediate voting area more than ten minutes, nor occupy a voting booth for more than five minutes if all such booths are in use and other voters are waiting to occupy the same. No registered elector whose name has been entered on the pollbook shall be

allowed to reenter the immediate voting area during the election except a judge of election.

31-10-608. Disabled voter - assistance. (1) If, at any regular or special election, any voter declares under oath to the judges of election of the precinct where he is entitled to vote that, by reason of blindness or other physical disability or inability to read or write, he is unable to prepare his ballot or operate the voting machine without assistance, he is entitled, upon his request, to receive the assistance of any one of the judges of election or, at his option, of any qualified elector of the precinct selected by the disabled voter. No person other than a judge of election in the precinct is permitted to enter the polling booth as an assistant to more than one voter.

(2) A notation shall be made in the pollbook opposite the name of each voter thus assisted stating that the voter has been assisted.

31-10-609. Spoiled ballots. In precincts which use an electronic voting system or paper ballots, no person shall take or remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot, he may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled one. The spoiled ballots thus returned shall be immediately cancelled and shall be preserved and returned to the clerk along with other election records and supplies.

31-10-610. Counting paper ballots. (1) In precincts which use paper ballots, as soon as the polls at any election have finally closed, the judges shall immediately open the ballot box and proceed to count the votes polled, and the counting thereof shall be continued until finished before the judges of election adjourn. They shall first count the number of ballots in the box. If the ballots are found to exceed the number of names entered on the pollbook, the judges of election shall then examine the official endorsements upon the outside of the ballots without opening the same, and if, in the unanimous opinion of the judges, any of the ballots in excess of the number on the pollbook do not bear the proper official endorsement, they shall be put into a separate pile by themselves, and a separate record and return of the votes in such ballots shall be made under the head of "excess ballots". When the ballots and the pollbook agree, the judges of election shall proceed to count the votes. Each ballot shall be read and counted separately, and every name separately marked as voted for on such ballot, where there is no conflict to obscure the intention of the voter, shall be read and marked upon the tally sheets before any other ballot is proceeded with. The entire number of ballots, excepting "excess ballots", shall be read and counted and placed upon the tally sheets in like manner. When all of the ballots, excepting "excess ballots", have been counted, the judges of election shall estimate and publish the votes.

(2) When all the votes have been read and counted, the ballots, together with one of the tally lists, shall be returned to the ballot box, and the opening shall be carefully sealed, and each of the judges shall place his initials on said seal. The cover shall then be locked and the ballot box delivered to the clerk as provided in section 31-10-614.

(3) All persons, except judges of election and watchers, shall be excluded from the place where the counting is being carried on until the count has been completed.

31-10-611. Tally sheets. As the judges of election open and read the ballots, the votes each of the candidates have received shall be carefully marked down, upon tally sheets prepared by the clerk for that purpose, by any appropriate election official.

31-10-612. Defective ballots. If a voter marks in ink or indelible pencil more names than there are persons to be elected to an office or if, for any reason, it is impossible to determine the choice of any voter for any office to be filled, his ballot shall not be counted for such office. A defective or an incomplete cross marked on any ballot in ink in a proper place shall be counted if there is no other mark or cross in ink or indelible pencil on such ballot indicating an intention to vote for some person other than those indicated by the first mentioned defective cross or mark. No ballot without the official endorsement, except as provided in section 31-10-805, shall be deposited in the ballot box, and none but ballots provided in accordance with the provisions of this article shall be counted. When the judges of election in any precinct discover in the counting of votes that the name of any candidate voted for is misspelled or the initial letters of his given name are transposed or omitted in part or altogether on the ballot, the vote for such candidate shall be counted for him if the intention of the elector to vote for him is apparent. Ballots not counted shall be marked "defective" on the back thereof and shall be preserved for such time as is provided in section 31-10-616 for ballots and destroyed as therein directed.

31-10-613. Judges' certificate. (1) As soon as all the votes have been read and counted, the judges of election shall make a certificate, stating the name of each candidate, designating the office for which such person received votes, and stating the number of votes he received, the number being expressed in words at full length and in numerical figures, such entry to be made as nearly as circumstances will admit, in the following form:

"At an election held at .... in .... precinct in the municipality of .... and state of Colorado, on the .... day of ....., in the year ....., the following named persons received the number of votes annexed to their respective names for the following described offices: Total number of votes cast were

....., A.B. had seventy-two (72) votes for mayor; C.D. had seventy-one (71) votes for mayor; N.O. had seventy-two (72) votes for councilman or trustee; P.Q. had seventy-one (71) votes for councilman or trustee (and in the same manner for any other persons voted for).

Certified by us:

E.F. ) Judges

)

G.H. ) of

)

I.J. ) Election"

(2) In addition, the judges of election shall make a statement in writing showing the number of ballots voted, making a separate statement of the number of unofficial and substitute ballots voted, the number of ballots delivered to voters, the number of spoiled ballots, the number of ballots not delivered to voters, and the number of ballots returned, identifying and specifying the same. All unused ballots, spoiled ballots, and stubs of ballots voted shall be returned with such statement.

31-10-614. Delivery of election returns, ballot boxes, and other election papers. When all the votes have been read and counted, the election officials selected in accordance with section 31-10-409 shall deliver to the clerk the certificate and statement required by section 31-10-613, the ballot boxes and all keys thereto, and the registration list, pollbooks, tally sheets, spoiled ballots, unused ballots, ballot stubs, oaths, affidavits, and other election papers and supplies. Such delivery shall be made at once and with all convenient speed, and informality in such delivery shall not invalidate the vote of any precinct when delivery has been made previous to the completion of the official abstract of the votes by the canvassers. The clerk shall give his receipt for all such papers so delivered.

31-10-615. Judges to post returns. In addition to all certificates otherwise required to be made of the count of votes polled at any election, the judges of election are hereby required to make out an abstract of the count of votes, which abstract shall contain the names of the offices, names of the candidates, ballot titles and submission clauses of all initiated, referred, or other measures voted upon, and the number of votes counted for or against each candidate or measure. Said abstract shall be posted in a conspicuous place upon the outside of the polling place immediately upon completion of the count.

The abstract may be removed at any time after forty-eight hours following the election. Suitable blanks for the required abstract shall be prepared, printed, and furnished to all judges of election at the same time and in the same manner as other election supplies are furnished.

31-10-616. Preservation of ballots and election records.

(1) The ballots, when not required to be taken from the ballot box for the purpose of election contests, shall remain in the ballot box in the custody of the clerk until six months after the election at which such ballots were cast or until the time has expired for which the ballots would be needed in any contest proceedings, at which time the ballot box shall be opened by the clerk and the ballots destroyed by fire, shredding, or burial, or by any other method approved by the state archivist. If the ballot boxes are needed for a special election before the legal time for commencing any proceedings in the way of contests has elapsed or in case such clerk, at the time of holding such special election, has knowledge of the pendency of any contest in which the ballots would be needed, the clerk shall preserve the ballots in some secure manner and provide for their being kept so that no one can ascertain how any voter may have voted.

(2) The clerk shall preserve all other official election records and forms for at least six months following a regular or special election.

PART 7  
VOTING MACHINES

31-10-701. Use of voting machines. Voting machines may be used in any municipal election if the governing body, by resolution, authorizes their use. The adoption and use of voting machines for municipal elections shall be in accordance with the provisions for the adoption and use of voting machines for general and primary elections insofar as such provisions are applicable to municipal elections.

31-10-702. Judges to inspect machines. The judges of election of each precinct using voting machines shall meet at the polling place therein at least three-quarters of an hour before the time set for the opening of the polls at each election. Before the polls are open for an election, each judge shall carefully examine each machine used in the precinct and see that no vote has been cast and that every counter, except the protective counter, registers zero.

31-10-703. Sample ballots, ballot labels, and cards of instruction. (1) Sample ballots shall be printed and in the possession of the clerk ten days before the election and shall be subject to public inspection. The sample ballots shall be arranged in the form of a diagram showing the front of the voting machine as it will appear after the official ballot labels are arranged thereon for voting on election day. Such sample ballots

may be either in full or reduced size. The clerk shall provide at least two sample ballots for each election precinct, to be delivered to the judges of election and posted in the polling place on election day.

(2) The clerk shall also prepare and place on each voting machine to be used in election precincts under his supervision a set of official ballot labels arranged in the manner prescribed for the official election ballot to be used on voting machines. When there is more than one person to be elected to an office, there shall be provided two, and only two, spaces for write-in purposes for each different office. No cross mark (X) shall be required opposite the name of a write-in candidate. The clerk shall deliver the required number of voting machines, equipped with the official ballot, to each election precinct no later than the day prior to the day of election.

(3) Cards of instruction for the guidance of voters in casting their ballots on voting machines shall also be supplied by the clerk as provided in section 31-10-906.

31-10-704. Instructions to vote. In case any voter after entering the voting machine asks for further instructions concerning the manner of voting, a judge shall give such instruction to him; but no judge or other election officer or person assisting such voter shall enter the voting machine, except as provided in section 31-10-608, or in any manner request, suggest, or seek to persuade or induce any such voter to vote for any particular ticket, or for any particular candidate, or for or against any particular amendment, question, or proposition. After receiving such instruction, such voter shall vote as in the case of an unassisted voter.

31-10-705. Length of time to vote. No voter shall remain within the voting machine booth longer than three minutes. If he refuses to leave after a lapse of three minutes, he shall be removed by the judges, but the judges in their discretion may permit a voter to remain longer than three minutes.

31-10-706. Judge to watch voting machines. The judges shall designate at least one of their number to be stationed beside the entrance to the voting machine during the entire period of the election to see that it is properly closed after a voter has entered to vote. At such intervals as he deems proper or necessary, the judge shall examine the face of the machine to ascertain whether it has been defaced or injured, to detect the wrongdoer, and to repair any injury.

31-10-707. Clerk to supply seals for voting machines. The clerk shall supply each election precinct with a seal for each voting machine to be used in the precinct for the purpose of sealing the machine after the polls are closed and with an envelope for the return of the keys to the machine along with the election returns.



31-10-708. Close of polls and count of votes. As soon as the polls are closed, the judges of election shall immediately lock and seal each voting machine against further voting, and it shall so remain for a period of thirty days unless otherwise ordered by the court. Immediately after each machine is locked and sealed, the judges of election shall open the counting compartments thereof and proceed to count the votes thereon. After the total vote for each candidate and upon each question or proposition has been ascertained, the judges of election shall make out a certificate of votes cast, in numerical figures only, and return the same to the clerk as provided in section 31-10-614.

31-10-709. Election laws apply - separate absentee ballots permitted. All of the provisions of this article not inconsistent with the provisions of sections 31-10-701 to 31-10-708 shall apply to all elections held in precincts where voting machines are used. Nothing in sections 31-10-701 to 31-10-708 shall prohibit the use of a separate paper ballot by absentee voters or for charter amendments where such is required.

#### PART 8 ELECTRONIC SYSTEM

31-10-801. Use of electronic system. An electronic voting system may be used in any municipal election if the governing body authorizes its use. The adoption and use of an electronic voting system for municipal elections shall be in accordance with the provisions for the adoption and use of such system for general and primary elections insofar as such provisions are applicable to municipal elections.

31-10-802. Sample ballots. Sample ballots shall be printed and in the possession of the clerk ten days before the election and shall be subject to public inspection. Such ballots shall be in the form of the official ballot but shall be printed on paper of a different color from the official ballot. The clerk shall provide that at least two sample ballots for each election precinct are delivered to the judges of election and posted in the polling place on election day.

31-10-803. Ballots - electronic voting. (1) Ballot pages or ballot cards placed upon voting devices shall be, so far as practicable, in the same order of arrangement as provided by section 31-10-902 for paper ballots, except that they shall be of the size and design required by the vote recorder or the electronic vote counting equipment, or both the vote recorder and the electronic vote counting equipment, and may be printed on a number of separate pages which are placed on the voting device or on one or more ballot cards.

(2) If votes are recorded on a ballot card, a separate write-in ballot may be provided, which may be in the form of a paper ballot or envelope on which the voter may write in the

titles of the office and the names of persons not on the printed ballot for whom he wishes to vote.

31-10-804. Preparation for use - electronic voting. (1) Prior to an election in which an electronic voting system is to be used, the clerk shall have the vote recorders or punching devices, or both the vote recorders and punching devices, prepared for voting and shall inspect and determine that each such recorder or device is in proper working order and shall cause a sufficient number of such recorders or devices to be delivered to each election precinct in which the electronic voting system is to be used.

(2) The clerk shall supply each election precinct in which vote recorders or voting devices are to be used with a sufficient number of ballot cards, sample ballots, ballot boxes, write-in ballots, if required, and other supplies and forms as may be required. Each ballot card shall have a serially numbered stub attached, which shall be removed by a judge of election before the card is deposited in the ballot box.

31-10-805. Instructions to vote. In case any voter, after commencing to vote, asks for further instructions concerning the manner of voting, a judge shall give such instructions to him; but no judge or other election officer or person assisting such voter shall request, suggest, or seek to persuade or induce any such voter to vote for any particular ticket, or for any particular candidate, or for or against any particular amendment, question, or proposition. After receiving such instructions, such voter shall vote as in the case of an unassisted voter.

31-10-806. Ballots. The clerk of each municipality using an electronic voting system shall provide sufficient ballots for every municipal election. The official ballots shall be printed and in the possession of the clerk at least ten days before the election.

31-10-807. Distribution of ballots. In municipalities using an electronic voting system, the clerk shall distribute to the election judges in the respective precincts a sufficient number of ballots. The ballots shall be sent in one or more sealed packages for each precinct with marks on the outside of each stating clearly the precinct and polling place for which it is intended, together with the number of ballots enclosed. Such package shall be delivered to one of the judges of election of such precinct between the close of business on the Friday preceding election day, or during any earlier day in which a judges' school of instruction is held, and 8 p.m. on the Monday before election day. A receipt for the ballots thus delivered shall be given by the election judge who received them. The receipt shall be filed with the clerk, who shall also keep a record of the time when and the manner in which each of said packages was sent and delivered.

31-10-808. Cards of instruction. (1) The clerk shall furnish to the judges of election of each precinct a sufficient number of instruction cards for the guidance of voters in preparing their ballots. The election judges shall post at least one card in each polling place on the day of election. Such cards shall be printed in large, clear type and shall contain full instructions to the voter as to what should be done:

- (a) To obtain a ballot for voting;
- (b) To prepare the ballot for deposit in the ballot box;
- (c) To obtain a new ballot in the place of one spoiled by accident or mistake; and
- (d) To obtain assistance in marking ballots.

31-10-809. Close of polls - count and seals in electronic voting. After the polls have been closed, the election judges shall secure the vote recorders or the voting devices, or both the vote recorders and the voting devices, against further use and prepare a ballot return in duplicate showing the number of voters as indicated by the pollbook who have voted in the precinct, the number of official ballot cards received, and the number of spoiled and unused ballot cards returned. The original copy of said ballot return shall be deposited in a metal or durable plastic transfer box, along with all voted and spoiled ballots. The transfer box shall then be sealed in such a way as to prevent tampering with the box or its contents. The clerk shall provide such a numbered seal. The duplicate copy of said ballot return shall be mailed at the nearest post office or post box to the clerk by a judge other than the one who delivers the transfer box to the counting center. One judge shall deliver the sealed transfer box to the counting center or other place designated by the clerk.

31-10-810. Electronic vote counting - test. (1) The clerk shall have the electronic ballot counting equipment tested in the manner prescribed in this section to ascertain that it will accurately count the votes cast for all offices and all measures. The electronic equipment shall be tested at least three times, once on the day before the election, again just prior to the start of the count on election day, and finally at the conclusion of the counting. The clerk may make any additional tests he deems necessary.

(2) The clerk shall vote and retain at least one hundred test ballots, and shall observe the tabulation of all test ballots by means of the electronic counting equipment, and shall compare such tabulation with the previously retained records of the test vote count. The cause of any discrepancies shall be corrected prior to the actual vote tabulation.

(3) All test materials, when not in use, shall be kept in a

metal box, and the clerk shall be the custodian of the box.

(4) After the final conclusion of the counting, all programs, test materials, and ballots shall be sealed and retained as provided for paper ballots.

31-10-811. Electronic vote counting - procedure. (1) All proceedings at the counting center shall be under the direction of the clerk and shall be conducted under the observation of watchers, so far as practicable, in accordance with the provisions of part 6 of this article; but no persons except those authorized for the purpose shall touch any ballot or ballot card or return. All persons who are engaged in the processing and counting of the ballots shall be deputized in writing and take an oath that they will faithfully perform their assigned duties. If any ballot is damaged or defective so that it cannot properly be counted by the electronic vote counting equipment, a true duplicate copy shall be made of the damaged ballot in the presence of two witnesses. The duplicate ballot shall be substituted for the damaged ballot. All duplicate ballots shall be clearly labeled as such and shall bear a serial number which shall be recorded on the damaged ballot.

(2) The return printed by the electronic vote tabulating equipment, to which have been added write-in votes, shall constitute, when certified by the clerk, the official return of each precinct. The clerk may from time to time release unofficial returns. Upon completion of the count, the official returns shall be open to the public.

(3) Absentee ballots shall be counted at the counting center in the same manner as precinct ballots. Write-in ballots may be counted in their precincts by the precinct judges of election or at the counting center, but, before any write-in vote is counted, it shall be compared with votes cast for the same office on the ballot card to ascertain whether the write-in vote is valid. If the voter has cast more votes for the office than he is lawfully entitled to vote, the word "void" shall be written across the write-in vote, and it shall not be counted. Votes cast for a nominated candidate whose name appears on the ballot shall not be voided because of an invalid write-in vote for the same office.

(4) If for any reason it becomes impracticable to count all or a part of the ballots with electronic vote tabulating equipment, the clerk may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

(5) The receiving, opening, and preservation of the transfer boxes and their contents shall be the responsibility of the clerk, who shall provide adequate personnel and facilities to assure accurate and complete election results. Any indication of tampering with the ballots or ballot cards or other fraudulent

action shall be immediately reported to the municipal attorney who shall immediately investigate such action and report in writing within ten days his findings to the clerk and shall prosecute to the full extent of the law any person responsible for such fraudulent action. The conduct of municipal elections when electronic voting systems are used shall follow, as nearly as practicable, the conduct of general and primary elections when such systems are used.

31-10-812. Election laws apply - separate absentee ballots permitted. All of the provisions of this article not inconsistent with the provisions of this part 8 shall apply to all elections held in precincts where an electronic voting system is used. Nothing in this part 8 shall prohibit the use of a separate paper ballot by absentee voters or for charter amendments where such is required.

#### PART 9 PAPER BALLOTS

31-10-901. Ballot boxes. The governing body of each municipality using paper ballots shall provide one ballot box for each polling place. Each ballot box shall be strongly constructed so as to prevent tampering, with a small opening at the top thereof and with a lid to be locked. The ballot boxes and keys shall be kept by the clerk and delivered to the judges of election within one day immediately preceding any municipal election, to be returned as provided in section 31-10-614. Nothing in this section shall prevent the governing body from obtaining ballot boxes from the office of the county clerk and recorder.

31-10-902. Ballots. (1) The clerk of each municipality using paper ballots shall provide printed ballots for every municipal election. The official ballots shall be printed and in the possession of the clerk at least ten days before the election. In addition, sample ballots shall be printed and in the possession of the clerk ten days before the election and shall be subject to public inspection. The sample ballots shall be printed in the form of the official ballots but upon paper of a different color from the official ballots. Sample ballots shall be delivered to the judges of election and posted with the cards of instruction provided in section 31-10-906.

(2) Every ballot shall contain the names of all duly nominated candidates for offices to be voted for at that election, except those who have died or withdrawn, and the ballot shall contain no other names. The names of the candidates for each office shall be printed upon the ballot without political party designation and without any title or degree designating the business or profession of the candidate. The names shall be arranged alphabetically under the designation of the office, according to surname.

(3) (a) The ballots shall be printed to give each voter a clear opportunity to designate his choice of candidates by a cross mark (X) in the square at the right of the name. On the ballot may be printed such words as will aid the voter, such as "vote for not more than one".

(b) At the end of the list of candidates for each different office shall be as many blank spaces as there are persons to be elected to such office in which the voter may write the name of any eligible person not printed on the ballot for whom he desires to vote as a candidate for such office; but no cross mark (X) shall be required at the right of the name so written in.

(c) When the approval of any question is submitted at a municipal election, such question shall be printed upon the ballot after the lists of candidates for all offices. The ballots shall be printed to give each voter a clear opportunity to designate his answer by a cross mark (X) in the appropriate square at the right of the question.

(4) The extreme top part of each ballot shall be divided by two perforated lines into two spaces, each of which shall be not less than an inch in width, the top portion being known as the stub and the next portion as the duplicate stub. Upon each of said stubs nothing shall be printed except the number of the ballot, and the same number shall be printed upon both stubs. Stubs and duplicate stubs of ballots shall both be numbered consecutively. All ballots shall be uniform and of sufficient length and width to allow for the names of candidates and the proposed questions to be printed in clear, plain type with a space of at least one-half inch between the different columns on said ballot. On the back of each ballot shall be printed the endorsement "Official ballot for...", and after the word "for" shall follow the designation of the precinct, ward, and municipality for which the ballot is prepared, the date of the election, and a facsimile of the signature of the clerk who has caused the ballot to be printed. The ballot shall contain no caption or other endorsement or number. Each clerk shall use precisely the same quality and tint of paper, the same kind of type, and the same quality and tint of plain black ink for all ballots furnished by him at one election. When candidates are to be voted for only by the registered electors of a particular ward, the names of such candidates shall not be printed on any other ballots than those provided for use in such ward. The ballots shall be of such form that when folded the whole endorsement is visible and the contents of the ballot are not exposed.

31-10-903. Ballots changed if candidate dies. If any person duly nominated dies before the day fixed for the election and the fact of such death becomes known to the clerk, the name of the deceased candidate shall not be printed upon the ballots for the election. If the ballots are already printed, the name of the deceased candidate shall be erased or cancelled, if possible,

before the ballots are delivered to the voters.

31-10-904. Printing and distribution of ballots. In municipalities using paper ballots, the clerk shall cause to be printed and distributed to the election judges in the respective precincts a sufficient number of ballots. The ballots shall be sent in one or more sealed packages for each precinct with marks on the outside of each clearly stating the precinct and polling place for which it is intended, together with the number of ballots enclosed. Such packages shall be delivered to one of the judges of election of such precinct between the close of business on the Friday preceding election day or during any earlier day in which a judges' school of instruction is held, and 8 p.m. on the Monday before election day. A receipt for the ballots thus delivered shall be given by the election judge who receives them. The receipt shall be filed with the clerk, who shall also keep a record of the time when and the manner in which each of said packages was sent and delivered. The election judge receiving such package shall produce the same, with the seal unbroken, in the proper polling place at the opening of the polls on election day and, in the presence of all election judges for the precinct, shall open the package.

31-10-905. Substitute ballots. If the ballots to be furnished to any election judge are not delivered by 8 p.m. on the Monday before election day or if after delivery they are destroyed or stolen, the clerk shall cause other ballots to be prepared, as nearly in the form prescribed as practicable, with the word "substitute" printed in brackets immediately under the facsimile signature of the clerk. Upon receipt of ballots thus prepared, accompanied by a written and sworn statement of the clerk that the same have been so prepared and furnished by him and that the original ballots have so failed to be received or have been destroyed or stolen, the election judges shall cause the ballots so substituted to be used at the election. If from any cause none of the official ballots or substitute ballots prepared by the clerk are ready for distribution at any polling place or if the supply of ballots is exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as possible in the form of the official ballots, may be used until substitutes prepared by the clerk are printed and delivered.

31-10-906. Cards of instruction. (1) The clerk shall furnish to the judges of election of each precinct a sufficient number of instruction cards for the guidance of voters in preparing their ballots. The election judges shall post at least one card in each polling place upon the day of the election. Such cards shall be printed in large, clear type and shall contain full instructions to the voter as to what should be done:

- (a) To obtain ballots for voting;
- (b) To prepare the ballot for deposit in the ballot box;

(c) To obtain a new ballot in the place of one spoiled by accident or mistake; and

(d) To obtain assistance in marking ballots.

PART 10  
ABSENTEE VOTING

31-10-1001. When absent electors may vote. When any registered elector of a municipality, on the day of any regular or special election held pursuant to law, is absent from his municipality, or by reason of his work or the nature of his employment is likely to be absent and fears that he will be absent from his municipality on said day, or because of serious illness or physical disability or for reasons based upon the doctrines of established religions is unable to attend the polls, he may cast his ballot at such election in the manner provided in sections 31-10-1001 to 31-10-1007.

31-10-1002. Application for absentee ballot - delivery - list. (1) Requests for an application for an absentee voter's ballot may be made orally or in writing. Applications for absent voters' ballots shall be filed in writing with the clerk not earlier than ninety days before and not later than the close of business on the Friday immediately preceding such regular or special election. The application may be in the form of a letter, stating the applicant's residence address and that he will be absent from the municipality on the day of said regular or special election, or that his work or employment, stating the nature thereof, is such that he is likely to be absent and fears that he will be absent from the municipality on said day, or that on account of serious illness or physical disability he is unable to attend the polls, or that for reasons based upon the doctrines of the established religion of which such applicant is a member he shall be unable to attend the polls.

(2) Upon receipt of an application for an absent voter's ballot within the proper time, the clerk receiving it shall examine the records of the county clerk and recorder to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested, and, if found to be so, he shall deliver, as soon as practicable, but not more than seventy-two hours after the ballots have been printed, to the applicant personally in the clerk's office or by mail to the mailing address given in the application an official absent voter's ballot, an identification return envelope with the affidavit thereon properly filled in as to precinct and residence address as shown by the records of the county clerk and recorder, and an instruction card.

(3) Before any absent voter's ballot is delivered or mailed or before any registered elector is permitted to cast his vote on an absent voter's voting machine, the clerk shall record such elector's name, the precinct number, and the number appearing on the stub of the ballot, together with the date the ballot is



delivered or mailed. This information shall be recorded on the registration sheet or registration list before the registration book or list is delivered to the judges of election. A separate list of the registered electors who have received absent voters' ballots shall be delivered to the judges of election in the precinct designated for counting absentee ballots, or, if the clerk elects to deliver absent voters' envelopes received from electors of each precinct to the judges of election of such precinct, as provided by section 31-10-1006, a separate list of the registered electors of each precinct who have received absent voters' ballots shall be delivered to the judges of election of each such precinct.

31-10-1003. Affidavit on return envelope. The return envelope shall have printed on its face an affidavit substantially in the following form:

"From .... State of .... Municipality of ....., County of ....

I, ....., being first duly sworn according to law, depose and say that I am a qualified and registered elector in precinct no. ...., municipality of .... and state of Colorado; that my residence and post-office address is ....; and that I herein enclose my ballot in accordance with the provisions of the Colorado Municipal Election Code of 1965.

.....  
Signature of voter

Subscribed and sworn to before me this .... day of ....., 19...

.....  
Official's signature

.....  
Clerk

.....  
(SEAL)

.....  
Municipality

.....  
(Title of officer)"

31-10-1004. Manner of absentee voting by paper ballot.

(1) Any registered elector applying for and receiving an absent voter's ballot, in casting such ballot, shall make and subscribe to the affidavit on the return identification envelope before an officer authorized by law to administer oaths, who shall administer said oath without charge therefor. The voter shall thereupon mark the ballot, in the presence of such officer and no other person, but in such a manner that such officer cannot know how the ballot is marked. The voter, in the presence of such officer, shall fold the ballot so as to conceal the marking, deposit it in the return envelope, and seal the envelope

securely. The envelope may be delivered personally or mailed by the voter to the clerk issuing the ballot. It is permissible for a voter to deliver the ballot to any person of his own choice or to any duly authorized agent of the clerk for mailing or personal delivery to the clerk. All such envelopes containing absent voters' ballots shall be in the hands of the clerk not later than the hour of 5 p.m. on the day of election.

(2) Upon receipt of an absent voter's ballot, the clerk shall write or stamp upon the envelope containing the same the date and hour such envelope was received in his office and, if the ballot was delivered in person; the name and address of the person delivering the same. He shall safely keep and preserve all absent voters' ballots unopened until the time prescribed for delivery to the judges, as provided in section 31-10-1006.

31-10-1005. Absent voters' voting machines - electronic voting systems. (1) Any municipality using voting machines may provide one or more voting machines in the clerk's office for the use of qualified applicants for absent voters' ballots. If such machines are provided, they shall be available from twelve days prior to the election until the closing of business on the Friday immediately preceding the election. Votes on such machines shall be cast and counted in the same manner as votes would be cast and counted on a voting machine in a precinct polling place on election day. The clerk shall supervise the casting and counting of absent voters' ballots on the machines. The machines shall remain locked and the tabulation of the votes cast shall remain unknown until the day of the election.

(2) Any municipality using an electronic voting system may provide such system for the use of qualified applicants for absent voters' ballots. Such system shall be available from twelve days prior to the election until the closing day of business on the Friday immediately preceding the election. Votes cast using such system shall be cast in the same manner as votes would be cast in a precinct polling place on election day. The clerk shall supervise the casting and counting of absent voters' ballots using such system.

31-10-1006. Delivery to judges. Not later than 8:30 a.m. on the day of any municipal election, the clerk shall deliver to the judges of one of the precincts of the municipality, which precinct shall be selected by the clerk, all the absent voters' envelopes received up to that time in sealed packages, taking a receipt therefor, together with the list of absent voters, or, in his discretion, the clerk may elect to deliver the absent voters' envelopes received from electors of each precinct and the list of absent voters for each precinct to the judges of such precinct. The clerk shall continue to deliver any such envelopes which may be received thereafter during said day to and including 5 p.m. On such packages shall be printed or written, "This package contains ....(number) absent voters' ballots." With such envelopes the clerk shall deliver to one of the election judges

written instructions, which shall be followed by the judges of election in casting and counting such ballots, and all such books, records, and supplies as are needed for tabulating, recording, and certifying said absent voters' ballots.

31-10-1007. Casting and counting absentee ballots. If the affidavit on the envelope containing the absent voter's ballot is properly sworn to, one of the judges shall open such voter's identification envelope in the presence of a majority of the judges, and, after announcing in an audible voice the name of such absent voter, he shall tear open such envelope without defacing the affidavit or certificate printed thereon or mutilating the enclosed ballot. Such ballot shall then be cast and counted in the same manner as if such absent voter had been present in person; except that one of the judges shall deposit the ballot in the ballot box without unfolding it. If the absent voters' ballots are delivered to the judges of one precinct selected by the clerk as provided by section 31-10-1006, the absentee vote shall be certified separately from the vote of the precinct where it is counted.

31-10-1008: Challenge of absentee ballots - rejection - record. (1) The vote of any absent voter may be challenged in the same manner as other votes are challenged, and the judges of election shall have power to determine the legality of such ballot. If the challenge is sustained or if the judges determine that the affidavit accompanying the absent voter's ballot is insufficient or that the voter is not a registered elector, the envelope containing the ballot of such voter shall not be opened, and the judges shall endorse on the back of the envelope the reason therefor. When it is made to appear to the judges of election by sufficient proof that any absent voter who has marked and forwarded his ballot has died, the envelope containing the ballot of such deceased voter shall not be opened, and the judges shall make proper notation on the back of such envelope. If an absent voter's envelope contains more than one marked ballot of any one kind, none of such ballots shall be counted, and the judges shall make notation on the back of the ballots the reason therefor. Judges of election shall certify in their returns the number of absent voters' ballots cast and counted and the number of such ballots rejected.

(2) All absent voters' identification envelopes, ballot stubs, and absent voters' ballots rejected by the judges of election in accordance with the provisions of this section shall be returned to the clerk. All absent voters' ballots received by the clerk after 5 p.m. the day of the election, together with those rejected and returned by the judges of election, as provided in this section, shall remain in the sealed identification envelopes and be destroyed later, as provided in section 31-10-616.

(3) If an absent voter's ballot is not returned or if it is rejected and not counted, such fact shall be noted on the record

kept by the clerk. Such record shall be open to public inspection under proper regulations.

31-10-1009. Oaths for absentee ballots. The oath required by section 31-10-1004 may be subscribed and sworn to before any United States postmaster or before any official authorized by law to administer oaths, including the clerk. Any such official may perform such other acts as are necessary to enable a registered elector to avail himself of the provisions of sections 31-10-1001 to 31-10-1008. If such absent voter is in the military or naval service of the United States or of the state of Colorado, such oath may be administered and such acts done by any commissioned officer of such military or naval forces.

31-10-1010. Emergency absentee voting. (1) (a) If the voter is confined in a hospital or his place of residence on election day because of conditions arising after the closing day for absent voter's ballot applications, such voter may request in a written statement, signed by him, that the clerk send him an absent voter's ballot with the word "EMERGENCY" stamped on the stubs thereof. The clerk shall deliver the emergency absent voter's ballot at his office, during the regular hours of business, to any authorized representative of the voter possessing a written statement from the voter's physician or practitioner that the voter will be confined in a hospital or his place of residence on election day. For the purposes of this paragraph (a), "authorized representative" means a person possessing a written statement from the voter containing the voter's signature, name, and address and requesting that such emergency absent voter's ballot be given to the authorized person as identified by name and address. The authorized person shall acknowledge receipt of the emergency ballot with his signature, name, and address.

(b) A request for an emergency absent voter's ballot under this section shall be made before, and the ballot shall be returned to the clerk's office no later than, 5 p.m. on election day.

(2) Any voter unable to go to the polls because of conditions arising after the closing day for absent voters' ballot applications which will result in his absence from the precinct on election day may apply at the office of the clerk for an emergency absent voter's ballot. Upon receipt of an affidavit signed by the voter on a form provided by the clerk and attesting to the fact that the voter will be compelled to be absent from his precinct on election day because of conditions arising after the closing day for absent voters' ballot applications, the clerk shall provide the voter with an absent voter's ballot, with the word "EMERGENCY" stamped on the stubs thereof.

(3) After marking his ballot, the voter shall place it in a return envelope provided by the clerk. He shall then fill out and sign the affidavit on the envelope, as provided in section

31-10-1003, on or before election day and return it to the office of the clerk. Upon receipt of the envelope, the clerk shall verify the voter's name on the return envelope with that which appears on his office precinct record and, if they compare, shall deliver the envelope to the election judges, as provided in section 31-10-1006.

PART 11  
CHALLENGE OF VOTERS

31-10-1101. No voting unless registered. Unless otherwise permitted pursuant to section 31-10-203, no person shall be permitted to vote at any regular or special election unless his name is found on the registration list or official registration book or unless registration in that precinct is confirmed orally as provided by section 31-10-606 (1).

31-10-1102. Right to vote may be challenged. (1) When any person whose name appears on the registration list or in the registration book makes application for a ballot, his right to vote at that poll and election may be challenged. If the person so applying is not entitled to vote, no ballot shall be delivered to him. Any person may also be challenged when he offers his ballot for deposit in the ballot box.

(2) It is the duty of any judge of election to challenge any person offering to vote who he believes is not a registered elector. In addition, challenges may be made by watchers or any registered elector of the precinct who is present.

31-10-1103. Challenge to be made by written oath. Each challenge shall be made by written oath, signed by the challenger under penalty of perjury, setting forth the name of the person challenged and the basis for the challenge. The judges of election shall deliver all challenges and oaths to the clerk at the time the other election papers are returned. The clerk shall forthwith deliver all challenges and oaths to the district attorney for investigation and appropriate action.

31-10-1104. Challenge questions asked voter. (1) If a person offering to vote is challenged as unqualified, one of the judges shall tender to him the following written oath or affirmation: "You do solemnly swear or affirm that you will fully and truly answer all such questions as are put to you touching your place of residence and qualifications as a registered elector at this election."

(2) If the person is challenged as unqualified on the ground that he is not a citizen and will not exhibit his papers pertaining to his naturalization, the judges, or one of them, shall put the following questions:

(a) "Are you a citizen of the United States?"

(b) Are you a native or naturalized citizen?

(c) Repealed.

(d) Repealed.

(3) Repealed.

(4) If the person is challenged as unqualified on the ground that he has not resided in this state for thirty-two days immediately preceding the election, the judges, or one of them, shall put the following questions:

(a) "Have you resided in this state for thirty-two days immediately preceding this election?"

(b) Have you been absent from this state within the thirty-two days immediately preceding this election, and during that time have you maintained a home or domicile elsewhere?

(c) If so, when you left, was it for a temporary purpose with the design of returning, or did you intend to remain away?

(d) Did you, while absent, look upon and regard this state as your home?

(e) Did you, while absent, vote in any state or territory?"

(5) If the person is challenged on the ground that he has not resided in the precinct for thirty-two days, one of the judges shall question him as to his residence in the precinct in a manner similar to the method of questioning a person as to his residence in this state.

(6) If the person is challenged as unqualified on the ground that he is not eighteen years of age, the judges, or one of them, shall ask the following question: "Are you eighteen years of age or over to the best of your knowledge and belief?"

(7) If the person challenged answers satisfactorily all of the questions put to him, he shall sign his name on the form of the challenge after the printed questions. The judges of election shall indicate in the proper place on the form of challenge whether the challenge was withdrawn and whether the challenged voter refused to answer the questions and left the polling place without voting.

31-10-1105. Oath of challenged voter. (1) If the challenge is not withdrawn after the person offering to vote has answered the questions put to him, one of the judges shall tender him the following oath:

"You do solemnly swear or affirm that you are a citizen of the United States of the age of eighteen years or over; that you

have been a resident of this state for thirty-two days next preceding this election and have not retained a home or domicile elsewhere; that you have been for the last thirty-two days, and now are, a resident of this precinct or have removed therefrom not more than thirty-two days as provided in section 31-10-201; that you are a registered elector of this precinct; and that you have not voted at this election."

(2) After the person has taken the oath or affirmation, his ballot shall be received and the word "sworn" shall be written on the pollbook after the person's name.

31-10-1106. Refusal to answer questions or take oath. If the challenged person refuses to answer fully any question which is put to him as provided in section 31-10-1104 or refuses to take the oath or affirmation tendered as provided in section 31-10-1105, the judges shall reject his vote.

## PART 12 CANVASS OF VOTES

31-10-1201. Returns - canvass. The returns of all municipal elections shall be made to the clerk of the municipality. He shall call to his assistance the mayor of the municipality. If there is no mayor or if the mayor has been a candidate at such election, the clerk shall appoint a municipal judge. No later than seven days after the election, the clerk, in the presence of his assistant, shall open the returns and make out abstracts of votes for each office.

31-10-1202. Imperfect returns. When the clerk and his assistant find that the returns from any precinct do not strictly conform to the requirements of law in making, certifying, and returning the same, the votes cast in such precinct nevertheless shall be canvassed and counted if such returns are sufficiently explicit to enable such persons authorized to canvass votes and returns to determine therefrom how many votes were cast for the several candidates.

31-10-1203. Corrections. If, upon proceeding to canvass the votes, it clearly appears to the clerk and his assistant that in any statement produced to them certain matters are omitted which should have been inserted or that any mistakes which are merely clerical exist, they shall cause the statement to be sent to the precinct judges from whom they were received to have the same corrected. The judges of election, when so demanded, shall make such correction as the facts of the case require but shall not change or alter any decision made before by them. The clerk and his assistant may adjourn from day to day for the purpose of obtaining and receiving such statement.

31-10-1204. Tie - lots - notice to candidates. If any two or more candidates receive an equal and the highest number of votes for the same office and if there are not enough offices

remaining for all such candidates, the clerk and his assistant shall determine by lot the person who shall be elected. Reasonable notice shall be given to such candidates of the time when such election will be so determined.

31-10-1205. Statement - certificates of election. (1) The clerk shall immediately make out statements from the abstract of votes which shall show the names of the candidates and the whole number of votes given to each, distinguishing the several precincts in which they were given. The clerk and his assistant shall certify such statement to be correct and subscribe their names thereto. They shall thereupon determine which persons have been by the greatest number of votes duly elected and shall endorse and subscribe on such statements a certificate of their determination.

(2) The clerk shall record in his office, in a book to be kept by him for that purpose, each such certified statement and determination and shall, without delay, make out and transmit to each of the persons thereby declared to be elected a certificate of his election, certified by him under his seal of office. The clerk shall also forthwith cause a copy of such certified statement and determination to be published in a newspaper of general circulation within the municipality or posted when no newspaper is published within the municipality. The clerk shall also file a copy in the office of the secretary of state.

31-10-1206. Fees of municipal judge. Each municipal judge appointed to assist the clerk in opening the returns of any municipal election and making abstracts of the votes cast thereat, as required in this article, shall receive for such services the sum of ten dollars for each day in which he is actually engaged therein, to be paid by the municipality in which such service is rendered.

### PART 13 CONTESTS

31-10-1301. Who may contest - causes. (1) The election of any person declared duly elected to any municipal office may be contested by any qualified elector of such municipality:

(a) When the contestee is not eligible for the office to which he has been declared elected;

(b) When illegal votes have been received or legal votes rejected at the polls in sufficient numbers to change the results;

(c) For any error or mistake on the part of any of the judges of election or the clerk and his assistant in counting or declaring the result of the election if the error or mistake would be sufficient to change the result;



(d) For malconduct, fraud, or corruption on the part of the judges of election in any precinct or any clerk or his assistant if the malconduct, fraud, or corruption would be sufficient to change the result;

(e) For any other cause which shows that another was the legally elected person.

31-10-1302. District judge to preside - bond. (1) All contested election cases of municipal officers shall be tried and determined in the district court of the county in which the municipality is located. Where a municipality is located in more than one county, the district court of either county has jurisdiction. The style and form of process, the manner of service of process and papers, the fees of officers, and judgment for costs and execution thereon shall be according to the rules and practices of the district court.

(2) Before the district court is required to take jurisdiction of the contest, the contestor must file with the clerk of said court a bond, with sureties, to be approved by the district judge, running to said contestee and conditioned to pay all costs in case of failure to maintain his contest.

31-10-1303. Filing statement - contents. The contestor shall file in the office of the clerk of the district court, within ten days after the day when the votes are canvassed, a written statement of his intention to contest the election, setting forth the name of the contestor, that he is a qualified elector of the municipality, the name of the contestee, the office contested, the time of election, and the particular causes of the contest. The statement shall be verified by the affidavit of the contestor or some qualified elector of the municipality that the causes set forth in such statement are true to the best of his knowledge and belief.

31-10-1304. Summons - answer. (1) The clerk of the district court shall thereupon issue a summons in the ordinary form, in which the contestor shall be named as plaintiff and the contestee as defendant, stating the court in which the action is brought and a brief statement of the causes of contest, as set forth in the contestor's statement. The summons shall be served upon the contestee in the same manner as other summonses are served out of the district court of this state.

(2) The contestee, within ten days after the service of such summons, shall make and file his answer to the same with the clerk of said court in which he shall either admit or specifically deny each allegation intended to be controverted by the contestee on the trial of such contest and shall set up in such answer any counterstatement which he relies upon as entitling him to the office to which he has been declared elected.

(3) When the reception of illegal votes or the rejection of legal votes is alleged as the cause of the contest, a list of the number of persons who so voted or offered to vote shall be set forth in the statement of contestor and shall be likewise set forth in the answer of contestee if any such cause is alleged in his answer by way of counterstatement.

(4) When the answer of the contestee contains new matter constituting a counterstatement, the contestor, within ten days after the filing of such answer, shall reply to the same, admitting or specifically denying, under oath, each allegation contained in such counterstatement intended by him to be controverted on the trial, and file the same in the office of the clerk of the district court.

31-10-1305. Trial and appeals. Immediately after the joining of issue, the district court shall fix a day for the trial to commence, not more than twenty days nor less than ten days after the joining of issue. Such trial shall take precedence over all other business in said court. The testimony may be oral or by depositions taken before any officer authorized to take depositions. Any depositions taken to be used upon the trial of such contest may be taken upon four days' notice thereof. The district judge shall cause the testimony to be taken in full and filed in said cause. The trial of such causes shall be conducted according to the rules and practice of the district court in other cases. Such proceedings may be reviewed and finally adjudicated by the supreme court of this state if application to such court is made by either party and if the supreme court is willing to assume jurisdiction of the case.

31-10-1306. Recount. If, upon the trial of any contested election under this article, the statement or counterstatement sets forth an error in canvass sufficient to change the result, the trial judge has the power to conduct a recount of the ballots cast or the votes tabulated on the voting machines in the precinct where the alleged error was made. The court may also require the production before it of such witnesses, documents, records, and other evidence as may have or may contain information regarding the legality of any vote cast or counted for either of the contesting candidates or the correct number of votes cast for either candidate and may correct the canvass in accordance with the evidence presented and its findings thereon.

31-10-1307. Judgment. The court shall pronounce judgment whether the contestee or any other person was duly elected. The person so declared elected is entitled to the office upon qualification. If the judgment is against the contestee and he has received his certificate, the judgment annuls it. If the court finds that no person was duly elected, the judgment shall be that the election be set aside and that a vacancy exists.

31-10-1308. Ballot questions - how contested. The results of an election on any ballot question may be contested in the

manner provided by this part 13. The grounds for such contest shall be those grounds set forth in section 31-10-1301 (1) (b), (1) (c), and (1) (d). The contestee shall be the appropriate election official. In addition to other matters required to be set forth by this part 13, the statement of intention to contest the election shall set forth the question contested.

PART 14  
OTHER JUDICIAL PROCEEDINGS

31-10-1401. Controversies. (1) When any controversy arises between any official charged with any duty or function under this article and any candidate or other person, the district court, upon the filing of a verified petition by any such official or person setting forth in concise form the nature of the controversy and the relief sought, shall issue an order commanding the respondent in such petition to appear before the court and answer under oath to such petition. It is the duty of the court to summarily hear and dispose of any such issues, with a view to obtaining a substantial compliance with the provisions of this article by the parties to such controversy, and to make and enter orders and judgments and to follow the procedures of such court to enforce all such orders and judgments.

(2) Such proceedings may be reviewed and finally adjudicated by the supreme court of this state if application to such court is made within five days after the termination thereof by the court in which the petition was filed and if the supreme court is willing to assume jurisdiction of the case.

31-10-1402. Correction of errors. (1) The clerk shall, on his own motion, correct without delay any error in publication or sample or official ballots which he discovers or which is brought to his attention and which can be corrected without interfering with the timely distribution of the ballots.

(2) When it appears by verified petition of a candidate or his agent to the district court that an error or omission has occurred in the publication of the names or descriptions of the candidates or in the printing of the sample or official ballots which has not been corrected by the clerk, the court shall issue an order requiring the clerk to forthwith correct such error or to forthwith show cause why such error should not be corrected. Costs, including a reasonable attorney's fee, may be taxed in the discretion of such court against either party.

(3) Such proceedings may be reviewed and finally adjudicated by the supreme court of this state if application to such court is made within five days after the termination thereof by the court in which the petition was filed and if the supreme court is willing to assume jurisdiction of the case.

PART 15  
ELECTION OFFENSES

31-10-1501. District attorney or attorney general to prosecute. (1) Any person may file with the district attorney an affidavit stating the name of any person who has violated any of the provisions of this article and stating the facts which constitute the alleged offense. Upon the filing of such affidavit, the district attorney shall forthwith investigate, and, if reasonable grounds appear therefor, he shall prosecute the same.

(2) The attorney general of the state shall have equal power with district attorneys to file informations or complaints against any person for violating any provision of this article.

31-10-1502. Sufficiency of complaint - judicial notice. Irregularities or defects in the mode of calling, giving notice of, convening, holding, or conducting any regular or special election constitutes no defense to a prosecution for a violation of this article. When an offense is committed in relation to any municipal election, an indictment, information, or complaint for such offense is sufficient if it alleges that such election was authorized by law, without stating the call or notice of the election, the names of the judges of election holding such election, or the names of the persons voted for at such election. Judicial notice shall be taken of the holding of any regular or special election.

31-10-1503. Immunity of witness from prosecution. Any person violating any provision of this article is a competent witness against any other such violator and may be compelled to attend and testify upon any trial, hearing, proceeding, or investigation in the same manner as any other person, but the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying except for perjury in giving such testimony. A person so testifying shall not thereafter be liable to indictment, prosecution, or punishment for the offense with reference to which his testimony was given and may plead or prove the giving of testimony accordingly in bar of such indictment or prosecution.

31-10-1504. Penalties for election offenses. In all cases where an offense is denominated by this article as being a misdemeanor and no penalty is specified, the offender, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

31-10-1505. Payment of fines. All fines collected under the provisions of this article shall be paid to the county in which the municipality concerned is located.

31-10-1506. Perjury. Any person, having taken any oath or made any affirmation required by this article, who swears or

affirms willfully, corruptly, and falsely in a matter material to the issue or point in question or suborns any other person to swear or affirm willfully, corruptly, and falsely commits perjury in the second degree or subornation of perjury.

31-10-1507. Forgery. Any person who falsely makes, alters, forges, or counterfeits any ballot before or after it has been cast, or who forges any name of a person as a signer or witness to a petition or nomination paper, or who forges the name of a registered elector to an absent voter's ballot commits forgery in the second degree.

31-10-1508. Tampering with nomination papers. Any person who, being in possession of nomination papers entitled to be filed under this article, wrongfully or willfully destroys, defaces, mutilates, suppresses, neglects, or fails to cause the same to be filed by the proper time in the clerk's office or who files any such paper knowing the same, or any part thereof, to be falsely made commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1509. Bribery of petition signers. Any person who offers or knowingly permits any person to offer for his benefit any bribe or promise of gain to an elector to induce him to sign any nomination petition or other election paper or any person who accepts any such bribe or promise of gain of any kind in the nature of a bribe as consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe is offered or accepted before or after signing, commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1510. Statements of expenses. Eleven days prior to each regular election and within thirty days after each regular election, every candidate seeking election to any municipal office for which the monthly compensation is one hundred dollars or less, except write-in candidates who are not elected, who was voted for at such election shall file with the clerk an itemized statement showing in detail all the moneys contributed or expended by him in aid of his election. Such statement shall give the names of the various persons who received such money, the amount of each item, and the purpose for which it was expended or contributed. There shall be attached to such statement an affidavit, subscribed and sworn to by such candidate, setting forth in substance that the statement thus made is, to the best of such candidate's knowledge and belief, a true, correct, and complete statement of all moneys so contributed or expended by him in aid of his election. Any candidate who refuses or neglects to file such statement commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1511. Custody and delivery of ballots and other election papers. (1) Any election official having charge of

official ballots, tally sheets, the registration book or list, and the pollbook who destroys, conceals, or suppresses the same, except as expressly permitted by this article, commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

(2) Any election official who has undertaken to deliver the official ballots, the tally sheets, the registration book or list, and the pollbook to the clerk and who neglects or refuses to do so within the time prescribed by law or who fails to account fully for all official ballots and other papers in his charge commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1512. Destroying, removing, or delaying delivery of ballots and other election papers. Any person who willfully destroys or defaces any ballot or tally sheet, or who willfully delays the delivery of the ballots, tally sheets, registration book or list, or pollbook, or who conceals or removes any ballot, ballot box, or tally sheet from the polling place or from the possession of the person authorized by law to have the custody thereof, or who aids, counsels, procures, or assists any person in doing any of said acts commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1513. Unlawfully refusing or permitting to vote. Any election judge who willfully and maliciously refuses or neglects to receive the ballot of any registered elector who has taken or offered to take the oath prescribed in section 31-10-1105 or knowingly and willfully permits any person to vote who is not entitled to vote at any election commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1514. Revealing how elector voted. Any election official, watcher, or person who assists a disabled person in voting who reveals how a voter has voted commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1515. Violation of duty. Any municipal official, election official or other person upon whom any duty is imposed by this article who violates, neglects, or omits to perform such duty or is guilty of corrupt conduct in the discharge of the same or any notary public or other officer authorized by law to administer oaths who administers an oath knowing it to be false or who knowingly makes a false certificate in regard to an election matter commits a misdemeanor for each offense and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1516. Unlawful receipt of money. (1) It is unlawful for any person, directly or indirectly, by himself or through any

other person:

(a) To receive, agree to, or contract for, before or during any municipal election, any money, gift, loan, or other valuable consideration for himself or any other person for voting or agreeing to vote, or for going or agreeing to go to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from voting for any particular person or measure at any municipal election; or

(b) To receive any money or other valuable thing during or after any municipal election on account of himself or any other person for voting or refraining from voting at such election, or on account of himself or any other person for voting or refraining from voting for any particular person at such election, or on account of himself or any other person for going to the polls or remaining away from the polls at such election, or on account of having induced any person to vote or refrain from voting for any particular person or measure at such election.

(2) Each offense mentioned in subsection (1) of this section is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 31-10-1504.

31-10-1517. Disclosing or identifying vote. Except as provided in section 31-10-608 or 31-10-609, no voter shall show his ballot after it is prepared for voting to any person in such a way as to reveal its contents, and no person shall solicit or induce the voter to do so. No voter shall place any mark upon his ballot by means of which it can be identified as the one voted by him, and no other mark shall be placed upon the ballot to identify it after it has been prepared for voting. Any person violating the provisions of this section commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1518. Delivering and receiving ballots at polls.  
(1) No voter shall receive an official ballot from any person except one of the judges of election, and no person other than a judge of election shall deliver an official ballot to a voter.

(2) No person except a judge of election shall receive from any voter a ballot prepared for voting.

(3) Any voter who does not vote the ballot received by him shall return his ballot to the judge of election from whom he received the same before leaving the polling place.

(4) Each violation of the provisions of this section is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 31-10-1504.

31-10-1519. Voting twice. If any person votes more than

once or, having voted once, offers to vote again or offers to deposit in the ballot box more than one ballot, he commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1520. Voting in the wrong precinct. Any person who, at any municipal election, fraudulently votes or offers to vote in any precinct in which he does not reside commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1521. Electioneering near polls. Any person who does any electioneering on election day within any polling place or in any public street or room or in any public manner within one hundred feet of any building in which a polling place is located commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1522. Employer's unlawful acts. (1) It is unlawful for any employer, whether corporation, association, company, firm, or person, or any officer or agent of such employer:

(a) To refuse any of his employees the privilege of taking time off to vote as provided in section 31-10-603; or

(b) To influence the vote of any employee by force, violence, or restraint, or by inflicting or threatening to inflict any injury, damage, harm, or loss, or by discharging from employment, or by promoting in employment; or

(c) To enclose, in paying his employees the salary or wages due them, their pay in pay envelopes upon which there are written or printed any political mottoes, devices, or arguments containing threats, expressed or implied, intended or calculated to control the political opinions, views, or actions of such employees; or

(d) To put up or otherwise exhibit, within ninety days prior to any municipal election, in his factory, workshop, mine, mill, office, or other establishment or place where his employees may be working or be present in the course of such employment any handbill, notice, or placard containing any threat, notice, or information that, in case any particular candidate is elected or issue is carried, work in his place or establishment will cease in whole or in part or the wages of his employees be reduced or containing any other threats, expressed or implied, intended or calculated to control the political opinions or actions of his employees; or

(e) To either expressly or by implication threaten, intimidate, influence, induce, or compel any employee to vote or refrain from voting for any particular person or issue in any municipal election or to refrain from voting at any municipal election.



(2) Each offense mentioned in subsection (1) of this section is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 31-10-1504.

31-10-1523. Intimidation. It is unlawful for any person directly or indirectly, by himself or any other person in his behalf, to make use of any force, violence, restraint, abduction, duress, or forcible or fraudulent device or contrivance, or to inflict or threaten the infliction of any injury, damage, harm, or loss, or in any manner to practice intimidation upon or against any person in order to impede, prevent, or otherwise interfere with the free exercise of the elective franchise of any qualified elector, or to compel, induce, or prevail upon any qualified elector either to give or refrain from giving his vote at any municipal election or to give or refrain from giving his vote for any particular person or measure at any such election. Each such offense is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 31-10-1504.

31-10-1524. Unlawfully giving or promising money. (1) It is unlawful for any person, directly, by himself, or through any other person:

(a) To pay, loan, or contribute or offer or promise to pay, loan, or contribute any money or other valuable consideration to or for any qualified or registered elector or to or for any other person to induce such elector to vote or refrain from voting at any municipal election, or to induce any registered elector to vote or refrain from voting at such election for any particular person, or to induce such elector to go to the polls or remain away from the polls at such election or on account of such qualified or registered elector having voted or refrained from voting for any particular person or having gone to the polls or remained away from the polls at such election; or

(b) To advance or pay or cause to be paid any money or other valuable thing to or for the use of any other person with the intent that the same, or any part thereof, be used in bribery at any municipal election or to knowingly pay or cause to be paid any money or other valuable thing to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election.

(2) Each offense mentioned in subsection (1) of this section is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 31-10-1504.

31-10-1525. Corrupt means of influencing vote. If any person, by bribery, menace, or other corrupt means or device whatsoever, either directly or indirectly, attempts to influence any voter of this state in giving his vote or ballot, or deters him from giving the same, or disturbs or hinders him in the free exercise of the right of suffrage at any municipal election in this state, or fraudulently or deceitfully changes or alters a

ballot, such person so offending commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1526. Interference with voter while voting. Any person who interferes with any voter when inside the immediate voting area or when marking a ballot or operating a voting machine commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1527. Introducing liquor into polls. It is unlawful for any person to introduce into any polling place or to use therein or offer to another for use therein at any time while any election is in progress or the results thereof are being ascertained by the counting of the ballots any intoxicating malt, spirituous, or vinous liquors. Each such offense is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 31-10-1504.

31-10-1528. Inducing defective ballot. Any person who willfully causes a ballot to misstate in any way the wishes of the voter casting the same or who causes any other deceit to be practiced with intent fraudulently to induce such voter to deposit a defective ballot so as to have the ballot thrown out and not counted commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1529. Personating elector. Any person who falsely personates any registered elector and votes under the name of such elector commits a misdemeanor for each offense and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1530. Alter posted abstract of votes. Any person who defaces, mutilates, alters, or unlawfully removes the abstract of votes posted outside of a polling place commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1531. Wagers with electors. It is unlawful for any person, including any candidate for public office, before or during any municipal election, to make any bet or wager with a qualified elector or take a share or interest in, or in any manner become a party to, any such bet or wager or provide or agree to provide any money to be used by another in making such bet or wager upon any event or contingency whatever arising out of such election. For each such offense, the offender commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1532. Tampering with notices or supplies. Any person who, prior to a municipal election, willfully defaces, removes, or destroys any notice of election posted in accordance with the provisions of this article, or who, during an election, willfully

defaces, removes, or destroys any card of instruction or sample ballot posted for the instruction of voters, or who, during an election, willfully removes or destroys any of the supplies or conveniences furnished to enable a voter to prepare his ballot commits a misdemeanor for each offense and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1533. Tampering with registration book, registration list, or pollbook. Any person who mutilates or erases any name, figure, or word on any registration book, registration list, or pollbook, or who removes such registration book, registration list, or pollbook or any part thereof from the place where it has been deposited with an intention to destroy the same, or to procure or prevent the election of any person, or to prevent any registered elector from voting, or who destroys any registration book or pollbook or part thereof commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1534. Tampering with voting machine. Any person who tampers with a voting machine before, during, or after any municipal election with intent to change the tabulation of votes thereon to reflect other than an accurate accounting commits a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1535. Interference with election official. Any person who at any municipal election intentionally interferes with any election official in the discharge of his duty, or who induces any election official to violate or refuse to comply with his duty, or who aids, counsels, procures, advises, or assists any person to do so commits a misdemeanor for each offense and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1536. Unlawful qualification as taxpaying elector. It is unlawful to take or place title to property in the name of another, or to pay the taxes, or to take or issue a tax receipt in the name of another for the purpose of attempting to qualify such person as a "qualified taxpaying elector", or to aid or assist any person to do so. The ballot of any such person violating this section shall be void. Each person violating any of the provisions of this section commits a misdemeanor for each offense and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1537. Absentee voting. Any election official or other person who knowingly violates any of the provisions of this article relative to the casting of absent voters' ballots or who aids or abets fraud in connection with any absent vote cast or to be cast commits a misdemeanor for each offense and, upon conviction thereof, shall be punished as provided in section 31-10-1504.

31-10-1538. Article to be liberally construed. This article shall be liberally construed so that all legally registered electors may be permitted to vote and so that fraud and corruption in municipal elections may be prevented.

31-10-1539. Applicability. (1) This article shall apply to regular and special municipal elections.

(2) This article shall not apply to cities, towns, or cities and counties having home rule, but any such city, town, or city and county may adopt all or any part of this article by reference.

31-10-1540. Political campaign signs - restrictions.

Repealed.

