



CRENNA M. BRUMWELL, ESQ.
CITY ATTORNEY

TO: MAYOR BRAD CAVANAGH & MEMBERS OF THE CITY COUNCIL

DATE: JANUARY 11, 2022

RE: FIVE FLAGS POSSIBLE REFERENDUM DATES IN 2022 AND 2023

The City Council tabled the discussion on a referendum related to Five Flags on July 6, 2020, via resolution 200-20 until January 18, 2022. The matter will appear on your agenda on January 18, 2022, per that directive. The City Council has a work session scheduled on January 24, 2022, to receive an update on Five Flags.

I am providing this information in advance for City Council review in the event it is useful for January 18th and 24th.

A number of Iowa Code sections are attached to this memo. Most importantly, I want you to be aware of the possible referendum dates in 2022 and 2023. They are:

2022

March 1, 2022 This date is not an option as the 46 day notice deadline to the County will have already passed by January 18, 2022

September 13, 2022

2023

March 7, 2023

September 12, 2023

November 7, 2023

I have confirmed these dates with City Clerk Adrienne Breitfelder and Jenny Hillary, Deputy Commissioner of Elections. Thank you.

cc: Michael C. Van Milligen, City Manager
Adrienne N. Breitfelder, City Clerk
Marie Ware, Leisure Services Manager

IOWA CODE

39.1 General election.

The general election shall be held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year.

39.2 Special elections.

1. a. All special elections which are authorized or required by law, unless the applicable law otherwise requires, shall be held on Tuesday. A special election shall not be held on the first, second, third, and fourth Tuesdays preceding and following the primary and the general elections.

b. A special election shall not be held in conjunction with the primary election. A special election shall not be held in conjunction with a regularly scheduled or special city primary or city runoff election.

2. Except as otherwise provided in subsection 1, a special election may be held on the same day as a regularly scheduled election if the two elections are not in conflict within the meaning of section 47.6, subsection 2. A special election may be held on the same day as a regularly scheduled election with which it does so conflict if the commissioner who is responsible for conducting the elections concludes that to do so will cause no undue difficulties, except that a special election for a city, school district, or merged area shall not be scheduled to coincide with the general election.

3. a. When voting is to occur on the same day in any one precinct for two or more elections, they shall be considered one election for purposes of administration including but not limited to publishing notice of the election, preparation of the precinct election register and completion of tally sheets after the polling place has closed.

b. If a special election to fill a vacancy is held in conjunction with a regularly scheduled election, the filing deadlines for the special election shall coincide with the filing deadlines for the regularly scheduled election. An election to fill a vacancy in a city office cannot be held in conjunction with a general election if the city election procedures provide for a primary election.

4. Unless otherwise provided by law, special elections on public measures are limited to the following dates:

a. For a county, in an odd-numbered year, the first Tuesday in March, the second Tuesday in September, or the first Tuesday after the first Monday in November. For a county, in an even-numbered year, the first Tuesday in March or the second Tuesday in September.

b. For a city, in an odd-numbered year, the first Tuesday in March, the second Tuesday in September, or the first Tuesday after the first Monday in November. For a city, in an even-numbered year, the first Tuesday in March or the second Tuesday in September.

c. For a school district or merged area, in the odd-numbered year, the first Tuesday in March, the second Tuesday in September, or the first Tuesday after the first Monday in November. For a school district or merged area, in the even-numbered year, the first Tuesday in March, or the second Tuesday in September.

39.3 Definitions.

The definitions established by this section shall apply wherever the terms so defined appear in this chapter and in chapters 39A, 43, 44, 45, 47, 48A through 53, and 68A unless the context in which any such term is used clearly requires otherwise.

1. "Absentee ballot" means any ballot authorized by chapter 53.
2. "City" means a municipal corporation not including a county, township, school district, or any special purpose district or authority. When used in relation to land area, "city" includes only the land area within the city limits.
3. "City election" means any election held in a city for nomination or election of the officers thereof including a city primary or runoff election.
4. "Commissioner" means the county commissioner of elections as defined in section 47.2.
5. "Election" means a general election, primary election, city election, school election or special election.
6. "Eligible elector" means a person who possesses all of the qualifications necessary to entitle the person to be registered to vote, whether or not the person is in fact so registered.
7. "General election" means the biennial election for national or state officers, members of Congress and of the general assembly, county and township officers, and for the choice of other officers or the decision of questions as provided by law.
8. "Infamous crime" means a felony as defined in section 701.7, or an offense classified as a felony under federal law.
9. "Primary election" means that election by the members of various political parties for the purpose of placing in nomination candidates for public office held as required by chapter 43.
10. "Public measure" means any question authorized or required by law to be submitted to the voters at an election.
11. "Registered voter" means a person who is registered to vote pursuant to chapter 48A.
12. "Registrar" means the state registrar of voters designated by section 47.7.
13. "Registration commission" means the state voter registration commission established by section 47.8.
14. "School election" means that election held pursuant to section 277.1.
15. "Special election" means any other election held for any purpose authorized or required by law.
16. "State commissioner" means the state commissioner of elections as defined in section 47.1.
17. "Written" and "in writing" may include any mode of representing words or letters in general use. A signature, when required by law, must be made by the writing or markings of the person whose signature is required. If a person is unable due to a physical disability to make a written signature or mark, that person may substitute either of the following in lieu of a signature required by law:
 - a. The name of the person with a disability written by another upon the request and in the presence of the person with a disability.

- b. A rubber stamp reproduction of the name or facsimile of the actual signature of the person with a disability when adopted by that person for all purposes requiring a signature and then only when affixed by that person or another upon the request and in the presence of the person with a disability.

47.6 Election dates — conflicts — public measures.

1. a. (1) The governing body of a political subdivision which has authorized a special election to which section 39.2, subsections 1, 2, and 3, are applicable shall by written notice inform the commissioner who will be responsible for conducting the election of the proposed date of the special election.

(a) If a public measure will appear on the ballot at the special election, the governing body shall submit the complete text of the public measure to the commissioner with the notice of the proposed date of the special election.

(b) If the proposed date of the special election coincides with the date of a regularly scheduled election or previously scheduled special election, the notice shall be given no later than 5:00 p.m. on the last day on which nomination papers may be filed with the commissioner for the regularly scheduled election or previously scheduled special election, but in no case shall notice be less than thirty-two days before the election. Otherwise, the notice shall be given at least forty-six days in advance of the date of the proposed special election.

(2) Upon receiving the notice, the commissioner shall promptly give written approval of the proposed date unless it appears that the special election, if held on that date, would conflict with a regular election or with another special election previously scheduled for that date.

b. A public measure shall not be withdrawn from the ballot at any election if the public measure was placed on the ballot by a petition, or if the election is a special election called specifically for the purpose of deciding one or more public measures for a single political subdivision. However, a public measure which was submitted to the county commissioner of elections by the governing body of a political subdivision may be withdrawn by the governing body which submitted the public measure if the public measure was to be placed on the ballot of a regularly scheduled election. The notice of withdrawal must be made by resolution of the governing body and must be filed with the commissioner no later than the last day upon which a candidate may withdraw from the ballot.

2. For the purpose of this section, a conflict between two elections exists only when one of the elections would require use of precinct boundaries which differ from those to be used for the other election, or when some but not all of the registered voters of any precinct would be entitled to vote in one of the elections and all of the registered voters of the same precinct would be entitled to vote in the other election. Nothing in this subsection shall deny a commissioner discretionary authority to approve holding a special election on the same date as another election, even though the two elections may be defined as being in conflict, if the commissioner concludes that to do so will cause no undue difficulties.

3. a. A city council, county board of supervisors, school district board of directors, or merged area board of directors that has authorized a public measure to be submitted to the voters at a special election held pursuant to section 39.2, subsection 4, shall file the full text of the public measure with the commissioner no later than 5:00 p.m. on the forty-sixth day before the election.
- b. If there are vacancies in county offices to be filled at the special election, candidates shall file their nomination papers with the commissioner not later than 5:00 p.m. on the forty-sixth day before the election.
- c. If there are vacancies in city offices to be filled at the special election, candidates shall file their nomination papers with the city clerk not later than 5:00 p.m. on the forty-seventh day before the election. The city clerk shall deliver the nomination papers to the commissioner not later than 5:00 p.m. on the forty-sixth day before the election. Candidates for city offices in cities in which a primary election may be necessary shall file their nomination papers with the city clerk not later than 5:00 p.m. on the fifty-fourth day before the election. The city clerk shall deliver the nomination papers to the commissioner not later than 5:00 p.m. on the fifty-third day before the election.