

DIRECTIVE 2009-13

September 3, 2009

TO: BOARDS OF ELECTIONS

Members, Directors, and Deputy Directors

2009 GENERAL ELECTION BALLOTS

In accordance with R.C. 3505.01, attached are the forms of the official ballot certified by the office of the Secretary of State for use at the November 3, 2009, general election. These forms are templates for ballot design, format and order of offices and issues for municipalities, including both cities and villages. The wording of the three state issues must appear on all ballots throughout the state as certified to the Secretary of State by the Ohio Ballot Board.

Accompanying this directive are the following ballot forms:

- Official City Office Type
- Official Village Office Type
- Official Judicial Nonpartisan
- Official City Nonpartisan
- Official Village Nonpartisan
- Official Township Nonpartisan
- Official Board of Education Nonpartisan
- Official Questions and Issues - state issues (certified text of three state issues)
- Official Questions and Issues - selected bond issues and tax questions
- Official Questions and Issues - selected local liquor options

STATUTORY MUNICIPALITIES vs. HOME RULE MUNICIPALITIES

A statutory municipality, also known as a municipal corporation, is a city or village that is governed by the general laws of Ohio (i.e., the Ohio Revised Code), rather than the provisions of a form of limited home rule government.

In comparison, a municipality that has adopted a form of limited home rule may have provisions governing elections on municipal offices and issues that differ from the general statutory provisions. To the extent that the home rule provisions conflict with the statutory provisions, the home rule provisions will govern in the home rule municipality.

Official Office Type Ballot.

The certified ballot forms for municipal offices accompanying this directive are for offices to be elected in statutory cities and villages. These ballot forms contain the correct title of each office as that title should appear on your local ballot and the order in which offices must appear on the ballot for all voting systems.

If a city or village has adopted a charter or one of the three alternate forms of home rule government set forth in Revised Code Chapter 705 (commission plan, city manager plan or federal plan), you must refer to the charter or appropriate provisions of R.C. 705 to determine:

- what officers are to be elected,
- for what terms, and
- the form of the ballot, if such ballot is prescribed by charter.

When implementing home rule provisions, first follow the relevant provisions of the charter or R.C. 705, whichever is appropriate. In the absence of home rule provisions for a specific issue, follow state law. These determinations often will require the review of a legal counsel for the home rule municipality. Additionally, our office is happy to assist you and your county prosecutor in making these determinations.

Official Questions and Issues Ballot.

The certified form of the Official Questions and Issues ballot containing the certified wording for the three state issues, tax levies, bond issues, local liquor options and other questions must be used for all voting systems. This form contains examples of some of the local questions and issues that *might* appear on the ballot in your county. Also, not every category or type of question/issue will appear on every ballot in every county, so please apply as much of the form as is appropriate to the ballots in your county.

Please review the appropriate sections of the Ohio Revised Code, local charter (if applicable), and the *Questions and Issues Handbook* provided by our office for ballot language and formats that may not appear on the enclosed Official Questions and Issues Ballot.

UNEXPIRED TERMS

Not every elective municipal office that becomes vacant during the term will be subject to an election for the remainder of the unexpired term. Vacancies in some offices will never trigger an unexpired term election. Vacancies in other offices may trigger unexpired term elections depending on when the vacancy occurs. Therefore, when a vacancy occurs in a municipal office mid-term, the board of elections must review the relevant statutory or home rule provisions governing that office to determine if an election must be conducted for the remainder of the unexpired term.

Following is a general overview of the statutory municipal offices that are, and are not, subject to unexpired term elections:

- In statutory **cities**, the law provides for elections for unexpired terms for the offices of:
 - **Mayor**
 - **Director of Law**
 - **Auditor**
 - **Treasurer**
 - **President of Council**
- In statutory **villages**, only the office of **mayor** is subject to an election for an unexpired term. (See R.C. 731.11, 731.43, 733.08, 733.25 and 733.31)
- Unexpired terms for **municipal court judges** or **municipal court clerks** may also appear on this year's ballot. (See R.C. 1901.10 and 1901.31)
- In statutory municipalities, there is no election for unexpired terms for **members of city or village councils**. Thus, if a vacancy occurs in the office of member of:

- **Village council**, the vacancy is filled for the remainder of the unexpired term by a person appointed by the remaining members of village council or, if the council fails to act within 30 days after the vacancy occurs, by the mayor. (See R.C. 731.43(A))
- **City council**, the vacancy is filled for the remainder of the unexpired term by a person chosen in accordance with the relevant provisions of R.C. 731.43(B) and/or (C), depending on whether the person vacating the office had been a partisan, independent or nonpartisan candidate.
- In **home rule municipalities**, consult the charter or governing section of R.C. 705 for the appropriate means for filling vacancies.

IMPORTANT POINTS TO REMEMBER

Please study and follow the enclosed ballot printing instructions to ensure that your ballots conform to statutory requirements. Special attention should be given to the following:

1. **Ordering Ballots.** The number of ballots to be printed for a precinct must be at least *one percent (1%) more* than the total number of electors registered to vote in the precinct. However, in determining the number of ballots to be printed, boards shall not count electors who have failed to respond within 30 days to any confirmation notice. (R.C. 3505.11)

Exception: If your board has chosen to provide ballots on demand under R.C. 3505.11(B), the board must prepare for each precinct at least five percent (5%) **more** ballots than the total number of electors in that precinct who voted in the 2005 general election. If precinct election officials request additional ballots, the board must provide those ballots in a timely manner so that all qualified electors in that precinct who wish to vote may do so.

2. **Spelling.** Each board must carefully check the spelling of candidates' names and all other details of the ballots.
3. **Rotation.** Names of candidates must be rotated on all ballots as prescribed in R.C. 3505.03. **No exemption from the rotation requirements has been granted for any voting system.**

Rotate the names of candidates from one precinct to another. The number of series to be printed in each of the several groups of candidates on any one ballot is **determined by the least common multiple of the number of names in each of the groups**. On the first rotation, the names must be listed alphabetically. Rotation is not correct if the number of rotations is based on the largest number of candidates for one office on the ballot. *Please see pg. 9, Ballot Printing Instructions of this directive for further information.*

For absentee ballot rotation, please refer to the attached ballot printing instructions that are part of this directive.

4. **Candidate's name.**

- a. **Nickname:** A candidate's nickname may be printed on the ballot if the nickname is a natural derivative of the candidate's legal name. However, quotation marks or parentheses **cannot** be printed on the ballot. *Example: A candidate named William Smith may have his name printed on the ballot as, e.g., William Smith, Will Smith, Billy Smith, but not William "Bill" Smith.* The determination of whether or not a nickname is a natural derivative of a candidate's given name is a function of the board of elections that certifies that candidate to the ballot.

- b. **Former Name(s):** Any former names which have been declared or submitted in accordance with R.C. 3513.06 shall be printed on the ballot in parenthesis directly below the present name of such person (e.g., Frank J. Thomas (John Francis Thomason). (R.C. 3505.02)

6. Titles. R.C. 3505.03 prohibits printing on the ballot titles such as “Dr.,” “Judge,” “Rev.,” etc.

7. Proofing. Boards of elections must thoroughly and promptly check every detail of their ballots upon receiving the ballot layouts or proofs from the vendor or printer. Either the director and deputy director, or board employees they designate, should proofread all series of ballots. After staff has proofed the ballots, the board members should also review and verify ballot layouts/proofs.

Once a board of election receives its ballot proofs, R.C. 3505.14 **requires** the board to:

- **Notify** the chairperson of the local executive committee of each political party, a designated representative of an independent or third party candidate, if any such candidate has qualified for the ballot, and a designated representative for each group supporting and/or opposing the ballot issues that appear on the ballot, informing each of them that the ballot proofs are available for inspection and correction. For the purposes of this requirement, if no such representative has been designated, the board may contact the treasurer whose name appears on the designation of treasurer, if any, filed on behalf of the group or committee.
- **Post** the ballot proofs for at least 24 hours in a publicly accessible place in the board office *and* in the county courthouse for inspection of any errors, and include instructions for notifying the board of any needed or requested correction(s), after which board personnel must review and correct any error.

Each board of elections shall also transmit copies of the proof of each **question and issue ballot** to the Secretary of State’s office for review. Please transmit the proof to the attention of Serena Henderson by one of the following methods; however, fax or email is preferable:

Fax: 614-752-4360;

E-mail: shenders@sos.state.oh.us or

U. S. Mail: 180 E. Broad St, 15th Fl., Columbus, OH 43215, or
P.O. Box 2828, Columbus, OH 43216

Note: *Please do not send proofs of candidate ballots to the Secretary of State’s office. Each board of elections is responsible for verifying the accuracy of its candidate ballots.*

If a correction is required at any stage of the proofing process, the board must repeat the above notification and posting requirements and ensure that, in correcting the error, another part of the ballot was not inadvertently changed.

8. Multi-County District Elections. The most populous county of a multi-county district **must** notify all the boards in that district of the candidates or questions/issues that must appear on the ballot for that district. These boards must follow the notification procedure detailed below:

- a. The most populous county must send a **written notice** of the appropriate candidates/issues to each less populous county within the multi-county district.
- b. The most populous county also provides to the less populous counties receipts **itemizing** each district candidate and issue being provided with the ballot information.
- c. Each less populous county must **return the receipts** to the most populous county; either confirming it received every candidate/issue itemized on the receipt *or* identifying the itemized items it did not receive.

- d. After the most populous county receives **ballot proofs** or layout, it must send a copy of the relevant candidates/issues to each of the less populous counties as part of the proofing process.
- e. The less populous counties within the district must notify the most populous county *immediately* of any **discrepancy** on the proofs or layout and the information previously received.
- f. The most populous county of a multi-county district must *immediately* provide each less populous county within the district a written notice, with receipt, of any candidate who **dies** before October 26, 2009, with instructions for the removal of that candidate's name from the ballot and, if appropriate, substitution of a replacement candidate's name.

9. Absentee Ballots

R.C. 3509.01 and R.C. 3511.04 require each board of elections to have absentee ballots printed and ready for use 35 days before the primary election.

A copy of each absentee ballot must be forwarded to our office at least 25 days before the election, October 10, 2009. Please do not confuse the submission of a copy of the absentee ballot with the earlier submission of ballot **proofs**.

Please submit the copy of your absentee ballots to Serena Henderson by one of the following methods:

- Email: shenders@sos.state.oh.us; or
- CD or computer diskette - U. S. Mail: P.O. Box 2828 Columbus, OH 43216 or 180 E. Broad St., 15th Fl., Columbus, OH 43215

It is the responsibility of the board of elections to send the absentee ballot file or CD/diskette to the Secretary of State's office. (R.C. 3509.01)

10. Official Canvass

As a reminder, R.C. 3505.32 provides the following:

- Boards may begin the official canvass not earlier than the 11th day after the election, November 14, 2009;
- Boards must begin the official canvass not later than the 15th day after the election, November 18, 2009; and
- Boards must complete the official canvass no later than the 21st day after the election, November 24, 2009.

If you have questions after you have reviewed the enclosed directive with printing instructions, please contact your county's assigned elections counsel.

Sincerely,

Jennifer Brunner

**BALLOT PRINTING INSTRUCTIONS FOR
November 3, 2009 GENERAL ELECTION**

BALLOTS (R.C. 3505.03, 3505.04, 3505.06)

The names of all persons who have qualified as candidates and not withdrawn shall be arranged, rotated, and printed upon the ballot in accordance with the provisions of Ohio Revised Code 3505 and 3506.

Office Type Ballot - R.C. 3505.03

City offices shall be listed in the following order:

Mayor
President of Council
Auditor
Treasurer
City Director of Law
Member of Council at Large
Ward Council Member

Village offices shall be listed in the following order:

Mayor
Clerk-Treasurer
Clerk
Treasurer
Member of Council
Member of Board of Trustees of Public Affairs

Nonpartisan Ballot - R.C. 3505.04

Judge of Municipal Court
Clerk of Municipal Court
City Offices (order of offices same as Official City (Partisan) Ballot, above)
Village Offices (order of offices same as Official Village (Partisan) Ballot, above)
Township Trustees
Member of Governing Board of Educational Service Center
Member of Board of Education (City)
Member of Board of Education (Local and Exempted Village)

Questions and Issues Ballot– R.C. 3505.06 Questions and issues follow candidates on the ballot. Questions and issues shall be grouped together in the following political subdivision order for the elections held on November 3, 2009:

- State
- County
- Municipal
- Township
- Schools and other districts

Each board of elections may determine the specific order in which the questions/issues within each group shall be placed on the ballot in that county. Absentee ballots must contain identical ordering of question/issues within groups to regular ballots.

All Ballots: The date of the election and the facsimile signatures of the members of the county board of elections shall also be placed on the ballot.

TYPE FACE FOR BALLOTS (R.C. 3505.08(B))

1. **Headings** shall be printed in Roman or Arial font.
2. **Each office title** shall be printed in twelve (12) point upper and lower case type, and a screened (shaded) heading shall be used.
3. **Vote allowed:** Immediately below the office title shall be printed "Vote for 1" or "Vote for not more than [insert numeral]" in a minimum point size of ten (10) point boldface upper and lower case type, the blank space to be filled with the correct number of persons who may be lawfully elected to the office. For example, for an office in which three seats are available, the wording would state "Vote for not more than 3."
4. **Names of candidates** shall be printed in a minimum of twelve (12) point boldface upper case type. The name of each candidate shall be indented one space; do **not** center a name within the space.
5. **Name of political party** of a candidate on the official office type ballot shall be printed in ten (10) point lightface upper and lower case type and shall be separated from the name of the candidate by a two (2) point blank space. *The name of the political party shall be flush with the name of the candidate.* No designation shall appear under the name of an independent candidate or candidate for a nonpartisan office. **Exception: If an independent candidate makes a request at the time of filing his or her petition to have the ballot designation "nonparty candidate" or "other-party candidate", it shall be printed in the same manner as above.** (See R.C. 3505.03) *The designation "independent" may not appear on the ballot.*
6. **Separation of Offices:** A four (4) point rule shall separate the name of a candidate or a group of candidates for the same office from the title of the office next appearing on the ballot.
7. **Separation of Office and Candidate Names:** A two (2) point rule shall separate the title of the office from the names of the candidates for that office.
8. **Separation of Names of Candidates:** A one (1) point rule shall separate names of candidates.
9. **Separation of Columns:** A two (2) point rule shall separate columns from each other.
10. **Instructions to Voters** on the ballot shall be in upper and lower case **twelve (12)** point type. Each board must provide clear instructions appropriate for its voting system(s). For example, "To vote, you must completely darken the oval at the left of the candidate or answer of your choice." Do *not* use terminology in your instructions that a voter may interpret differently that what may be intended, such as: "Completely darken the oval opposite of your choice."

BALLOT INK (R.C. 3505.08)

All ballots shall be printed with black ink.

STUBS (R.C. 3505.08, 3506.08, 3506.09)

Unless the Secretary of State's office has granted permission for a board to use a one-stub ballot, each optical scan ballot shall have attached at the top or bottom two stubs, each the width of the ballot and not less than one-half inch in length. Perforated lines shall separate the stubs from the ballot and each other. The top stub shall be known as "Stub B" and shall have printed on its face "Stub B". The other stub shall be known as "Stub A" and shall have printed on its face "Stub A".

Each stub shall also have printed on its face "Consecutive Number" Each ballot provided for use in each precinct must be numbered consecutively, beginning with the number 1, and by printing the same ballot number upon both of the stubs attached to the ballot.

BALLOT INSTRUCTIONS TO VOTERS (R.C. 3505.12, 3506.09)

Each ballot must contain instructions advising the voter of the manner in which to mark the ballot. The instructions should be in upper and lower case of a minimum of twelve (12) point type. Each board must provide clear instructions appropriate for its voting system(s). For example, "To vote, you must completely darken the oval at the left of the candidate or answer of your choice." Do *not* use terminology in your instructions that a voter may interpret differently that what may be intended, such as: "Completely darken the oval opposite of your choice."

The instructions for an optical scan ballot should also contain wording to inform the voter if he or she marks more choices than permitted, the vote marked for that race or issue will not be counted.

QUESTIONS AND ISSUES BALLOT (R.C. 3505.06, R.C. 3505.08)

The heading "Official Questions and Issues" must appear *before* the text of the first question or issue listed on the ballot. Immediately below the heading of each question or issue shall be printed a brief title descriptive of each question or issue appearing on the ballot, such as "Proposed Bond Issue" or "Proposed Tax Levy." The state issues will be numbered, however, each local question or issue appearing on the ballot *may*, but need not, be numbered.

BALLOT LANGUAGE FOR ISSUES (R.C. 3505.06)

A minimum type size of ten (10) point shall be used for all questions and issues. The ballot language for a local question or issue need not contain the full text of the proposal to be voted upon. The board of elections may prepare a condensed text, if it properly describes each local question or issue appearing on the ballot. The Secretary of State legal staff shall review the text of all local questions and issues.

The text of the state issues may not be condensed and must appear on the ballot as certified by the Ohio Ballot Board. However, in any case where condensed text is used for local questions and issues, the full text of the proposed question or issue, together with the percentage of the affirmative votes necessary for passage as required by law, shall be posted in each polling place in a visible location that is easily accessible to the voters.

PERCENTAGE OF VOTES FOR QUESTIONS AND ISSUES (R.C. 3505.06)

A brief statement of the percentage of affirmative votes necessary for passage as required by law shall be on the questions and issues ballot for each question and issue submitted and should be inserted in the space immediately below the title and name of entity requesting the submission of the question or issue. The percentages should be stated as follows: "A majority affirmative vote is necessary for passage," or such other brief statement as will be descriptive of the percentage of affirmative votes required for passage (e.g., "A fifty-five percent affirmative vote is necessary for passage.").

CANDIDATES - FULL / UNEXPIRED TERMS (R.C. 3505.04)

In the case of judicial offices, immediately below the title of office shall be printed either "Full Term Commencing ..." or "Unexpired Term Ending ...," followed by the appropriate date.

- In counties where more than one full term for the office of judge of a municipal court appear

on the ballot, the judicial offices for that court should appear in chronological order by dates the terms commence.

- For all other offices, the designation of the term is necessary where there is only an unexpired term to elect, or where there is both a full and unexpired term to elect. Where there are both full and unexpired terms for the same office, place the full term first followed by the unexpired term.

CANDIDATES WITH SAME NAMES (R.C. 3505.021)

In the event that two or more candidates for the same office have the same first and last names, please follow as appropriate the procedures set forth in R.C. 3505.021, which is set forth below:

R.C. 3505.021. In the event two or more persons with identical given names and surnames run for the same office in a general or special election on the same ballot, the names of the candidates shall be differentiated on the ballot by varying combinations of first and middle names and initials. Immediately after it becomes known that two or more persons with the same given name and surname are to be candidates on the same ballot for the same office, the director of the board of elections for local, municipal, county, general, or special elections, or the director of the board of elections of the most populous county for district, general, or special elections . . . shall notify the persons with identical given name and surnames that the names of such persons will be differentiated on the ballot. If one of the candidates is an incumbent who is a candidate to succeed himself for the office he occupies, he shall have first choice of the name by which he is designated on the ballot. If an incumbent does not make a choice within two days after notification or if none of the candidates is an incumbent, the board of elections within three days after notification shall designate the names by which the candidates are identified on the ballot. In case of a district candidate the board of elections in the most populous county of the district shall make the determination.

“Notification” as required by this section shall be by the director of the board of elections or secretary of state by special delivery or telegram at the candidate’s address listed in his declaration or petition of candidacy.

ROTATION - CANDIDATES

Candidates’ Names (R.C. 3505.03)

The names of all candidates for an office shall be arranged in a group under the title of that office and shall be rotated from one precinct to another, **except:**

- Absentee ballots, which shall bear a different rotation (discussed below), *or*
- When the number of candidates for a particular office is the same as the number of candidates to be elected to that office (uncontested races).

The least common multiple of the number of names in each of the several groups of candidates determines the number of series to be printed.

For example, four of the seven offices on the ballot have uncontested races. The remaining three offices (only one candidate to be elected to each particular office) have the following number of candidates printed on the ballot:

Office One – two candidates

Office Two – three candidates
Office Three – four candidates

The least common multiple of this series of candidates is 12 (the smallest number possible that 2, 3 and 4 divide into evenly). Therefore, this series of candidates must rotate 12 times. The candidates for the uncontested races do not rotate.

The board of elections shall number all precincts in regular, serial sequence. In the first precinct, the names of the candidates in each group shall be listed in alphabetical order. In each succeeding precinct, the name in each group which is listed first in the preceding precinct shall be listed last, and the name of each candidate shall be moved up one place.

Absentee Ballots (R.C. 3505.03)

On absentee ballots, the names of all candidates for an office shall be:

- Arranged in alphabetical order in a group under the title of that office, and
- Alternated so that each name shall appear on each succeeding ballot, insofar as is reasonably possible, substantially an equal number of times at the beginning, at the end, and in each intermediate place (if any) of the group of candidates for that office.

In those counties using voting systems in which absentee ballots are combined with ballots voted at the precinct prior to tabulation (i.e., tabulated in the voter's home precinct), the ballot name order for candidates on **absentee ballots** shall be the same as the precinct ballot name order for candidates on **regular ballots**.

WRITE - IN VOTES – Blank Spaces (R.C. 3505.23)

A write-in space shall be provided on the ballot for every office for which a county board of elections has received a valid declaration of intent of write-in candidacy. In the case of any office for which no valid declarations of candidacy, nominating petition or intent of write-in candidacy have been filed within the time prescribed by law, the board shall provide on the ballot the title of such office and shall state on the ballot that "no candidate filed" for the office.

SEALING OF PRINTED PAPER BALLOTS (R.C. 3505.15)

The board shall make adequate provision for the inspection of the printing and rotation of names of the ballots. The selected printing vendor shall seal the ballots securely in packages, one package for each precinct in the county in which the election is to be held, place a paper cover over them, and indicate on the cover the number of ballots contained in the package, with a space to indicate the precinct, and deliver them to the board at such time and place as the board may direct. The board, upon receiving such packages, shall give a receipt for them indicating the number of ballots in each package and the number of precincts in each case.