



Legislation Text

File #: 15-289, **Version:** 1

TO: Mayor Collins and Town Council Members

FROM: Kevin Burke, Town Manager
Duncan Miller, Town Clerk

DATE: December 3, 2015

DEPARTMENT: Town Manager

AGENDA TITLE:

Adoption of Ordinance Number 692 Amending Article 2-3 Council Election

RECOMMENDATION:

Adopt Ordinance Number 692

SUMMARY STATEMENT:

The Town Council discussed the proposed amendments to Article 2-3 of the Town Code regarding elections at the Study Session on November 19, 2015.

In 2013, the Arizona Legislature adopted the "Consolidated Elections Law" mandating that all local elections for mayor and council must be held in the fall of even numbered years. This law necessitated changes in other election laws and procedures. In 2014, the Legislature passed a session law governing the formula to be used in determining whether a local candidate was elected at the Primary Election and/or whether there would be a run-off election.

In order to be elected at the Primary Election, candidates must receive a majority of the total votes cast. Prior to 2014, the Town Code defined "total votes cast" as the total number of voters who voted for the office of mayor. The 2014 Session Law preempted that provision and replaced it with a new formula. In 2015, the Legislature made the formula permanent law.

Total Votes Cast Formula (A.R.S. §9-821.01)

The new method calls for adding the total number of votes cast for all candidates for an office; dividing that sum by the number of seats to be filled at the election and then dividing the result of that calculation by two and rounding the number to the highest whole number. If more candidates receive a majority than there are offices to be filled, the candidates receiving the highest number of votes equal to the number of seats to be filled shall be declared elected.

In the following example, there are six candidates running for three council seats and their vote totals are as follows:

John Smith 100

Mary Smith	90
John Doe	90
Mary Doe	70
John Jones	55
Mary Jones	40
TOTAL	445

445 is divided by three (the number of seats to be filled) which equals 148.3. The result is then divided by two (74.166) and rounded up to the nearest whole number (75). In consequence, candidate receiving 75 or more votes would win at the primary. So John Smith, Mary Smith and John Doe would fill the 3 seats. If more candidates than there are offices to be filled had received 75 votes or more, then the three candidates with the most votes would be declared winners.

In a second example, if John Doe had only received 72 votes, then John Doe and Mary Doe would complete in the General Election for the third seat. John Jones and Mary Jones would not be on the November ballot.

This formula can make it easier for local candidates to win at the primary. If the Town had used the prior method in 2014, there would have been a November run-off. Having a state-wide standard also makes declaring winners more definitive and less likely to be challenged in court.

Sections 2-3-3, 2-3-4, and 2-3-5 (Clean up)

There are no substantive changes to Sections 2-3-3, 2-3-4, and 2-3-5. The amendment to Section 2-3-3 more clearly states that if a General or Run-off Election is necessary, only twice the number of candidates as seats to be filled will appear on the ballot. Section 2-3-4 simply clarifies when newly elected council members take office and Section 2-3-5 is renumbered.

Mail Ballot Elections (2-3-6 deleted)

Section 2-3-6, which directs the Town Clerk to conduct primary and general elections using the all-mail ballot voting procedure, is being deleted. State statute permits municipalities and school districts to hold all-mail ballot elections, but not counties. In 2014, the Maricopa County Elections Department reasoned that because of the consolidated elections law, municipalities could still hold all-mail ballot elections and that all other races for state and federal offices would be included on the ballot. Essentially the county was joining the local ballot. However, this created many procedural difficulties especially on Election Day. Counties across Arizona have decided not to provide all-mail balloting services on consolidated election dates. However, voters on the permanent early voter list may still vote early, but each precinct will have a polling location on Election Day.

BUDGETARY IMPACT:

None

ATTACHMENT(S):

Ordinance Number 692