



City of Albuquerque

OFFICE OF THE CITY CLERK

2005 ELECTION GUIDE

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2005 ELECTION GUIDE

The election guide was developed for candidates for Mayor and City Council and their campaign committees, Measure Finance Committees and the public. Specific deadline dates for the 2005 election will be provided by the City Clerk to each candidate and Measure Finance Committee. This Guide provides a partial list of deadline dates and is not meant to be complete. Each candidate and Measure Finance Committee shall have the responsibility of becoming familiar with the deadlines throughout the election process. Candidates and Measure Finance Committees shall also become familiar with the Rules and Regulations of the Board of Ethics and Campaign Practices.

The election of Mayor and Councillors is held on the first Tuesday after the first Monday of October in odd numbered years, City Charter Article II, § 1, which will be October 4, 2005. The date of the run-off election, if any is needed, will be determined by the City Council and Mayor during 2005.

PART I ELECTION PROCEDURES

STEP I THE PETITION PROCESS

- 1.1 Obtaining the Petition Form** Prospective candidates are required to obtain nominating petitions in person from the City Clerk. Candidates may not send a representative to obtain the petition form. The nominating petitions used must be the form provided by the City Clerk. City Charter Article XIII § 4 (c) 1. D and § 2-4-13 (B) ROA 1994.
- 1.2 Date the Petition Form Will Be Available** The City Clerk will provide the nomination petition to prospective candidates. The exact date will be announced and is typically during the early part of June.
- 1.3 Number of Petition Signatures Required** The number of signatures required for the nominating petitions is 2% of the registered voters in the City for the office of Mayor and 2% of the registered voters in the Council District for Councilors. The exact number required will be provided by the City Clerk on the first day petitions are made available to candidates. City Charter Article II, §3.
- 1.4 Deadlines for Submitting Petitions** Signed petitions may be submitted as early as Eighty-two days prior to the election, which will be Thursday, July 14, 2005. The deadline for submitting petitions is sixty-seven days before the Election, which will be Friday, July 29, 2005. §2-4-13 (B) ROA 1994.
- 1.5 Validity of the Petition** Signatures on petitions submitted to the City Clerk will be verified by the City Clerk, §2-4-14 ROA 1994. The City Clerk verifies that each person signing the petition is at the time of the verification a registered voter in the City or Council District. The results of the validation process are made public along with a list of the petition signatures that were purged. Any person whose signature was purged may request reinstatement of his/her signature by making such request to the City Clerk, §2-4-

15 ROA 1994. The City Clerk may not reinstate signatures of people not properly registered in the City or the City Council District. If the City Clerk refuses or fails to reinstate the signature within three days of the demand to reinstate, the person asking for reinstatement may file a petition to the district court for an order to reinstate but must do so within ten days, §3-1-5 L (2) NMSA 1978. The results of the verification process are made public prior to the day candidates must file their declaration of candidacy, which is the fifty-sixth day before the election. Each signature on the nominating petition must be that of the registered voter and forgery of signatures is a fourth degree felony, §3-1-5 C. (4) NMSA 1978.

STEP 2 ATTEND ELECTRONIC REPORTING TRAINING

The City will train all candidates or their designees and Measure Finance Committee representatives on how to report financial disclosure statements electronically and shall schedule training through the Office of the City Clerk. PIN numbers will be assigned to each candidate and measure finance committee for access to the electronic database in the City's website. Candidates and Measure Finance Committees that do not have access to a computer may use a computer (without charge) at the Office of the City Clerk for filing disclosure reports.

STEP 3 FILE THE FIRST DISCLOSURE OF CAMPAIGN FINANCING REPORT

- 3.1 When the Report is Due** The first campaign financing report is due by noon on the Friday of the twelfth week before the election, Friday, July 15, 2005. All reports are filed with the City Clerk. City Charter Article XIII, §4(c) 2. Candidates who have not obtained a valid nominating petition from the City Clerk before the first disclosure report is due will not have to submit a disclosure report until Friday of the fourth week before the election, September 9, 2005.
- 3.2 Contents of the First Report** Whether the first report is filed on the Friday of the twelfth week or the fourth week before the election, the report shall include the required information relating to all funds received and all expenditures made at any time up to 5:00 p.m. on the day prior to the report, no matter how far back such contribution or expenditure was made for the office being sought, City Charter Article XIII, §4 (h).

STEP 4 FILE THE DECLARATION OF CANDIDACY FORM

- 4.1 The Filing Date** The Declaration of Candidacy must be filed with the City Clerk on the fifty-sixth day prior to the election between 8:00 a.m. and 5:00 p.m., Tuesday, August 9, 2005. §3-8-27 A. NMSA 1978. A candidate who fails to file a declaration of candidacy or meet all of the requirements related to filing the declaration of candidacy shall not be allowed to have his or her name on the ballot even though such candidate may have met the petition requirements.

- 4.2 Certified Voter Registration** The candidate must file with the City Clerk a certified copy of the candidate's current affidavit of voter registration on file with the Bernalillo County Clerk. This affidavit must show the candidate's current residential street address. §3-8-27 B. and C. NMSA 1978. This affidavit must be obtained from the Office of the Bernalillo County Clerk. For City Council Candidates, the affidavit must show an address that is within the City Council District to which the candidate seeks to be elected. For the Mayor, the affidavit must show an address with in the City of Albuquerque.
- 4.3 Declaration of Candidacy Requirements** The declaration of candidacy must show the identical name and address as is shown on the voter registration submitted with the declaration of candidacy. Candidates must also comply with a number of other requirements listed on the Declaration of Candidacy form provided by the City Clerk.
- 4.4. Documents to be Filed with Declaration of Candidacy**
- 4.4.1 Candidate's Acknowledgment of Familiarity with Election Code, Municipal Election Ordinances, and Board of Ethics and Campaign Practices Rules and Regulations. City Charter Article XIII, §7.
- 4.4.2 Candidate's Campaign Bank Account Statement. City Charter Article XIII, §4 (b) 1.
- 4.4.3 Authorization Letter to Bank. City Charter Article XIII, §4 (b) 3.
- 4.4.4 Affidavit of Voter Registration. §3-8-27 L. NMSA 1978.
- 4.5 Announcement of Campaign Contribution Limits.** The maximum amount an individual contributor may contribute to a Mayoral or Council Candidate will be announced on August 9, 2005, City Charter Article XIII, §4 (e).

STEP 5
FILE THE CANDIDATE'S DISCLOSURE STATEMENT

The Candidate shall file a financial disclosure statement on the form provided by the City Clerk within two days of filing the Declaration of Candidacy. City Charter Article XIII, § 3.

STEP 6
**ATTEND THE CERTIFICATION OF CANDIDATES AND
DRAWING OF BALLOT POSITION**

Candidates or their representatives who have been designated by the candidate in writing with the City Clerk shall appear at the Office of the City Clerk's on the fifty-fourth day prior to the election, Thursday, August 11, 2005, to ascertain whether the City Clerk has certified the candidate's declaration of candidacy as valid, §3-8-27 D (7) NMSA 1978. At 5:01 p.m. on the fifty-fourth day preceding the election, the City Clerk shall conduct a drawing by lot to

determine the order of candidates on the ballot. If a candidate or his/her representative does not appear, the Clerk shall draw a lot for the absent candidate, §3-8-29 A. NMSA 1978.

STEP 7 ATTEND ORIENTATION SESSION

The Board of Ethics and Campaign Practices holds an orientation session for candidates and their treasurers. Rules and Regulations of the Board of Ethics and Campaign Practices, §2 (e). The City Clerk will give notice of the time of this session.

STEP 8 FILE FINANCIAL DISCLOSURE STATEMENTS

- 8.1 Contents of Reports** Each report shall include the required information relating to all funds received and all expenditures made since the prior report, up to 5:00 p.m. on the day prior to the report. Contributions received shall be reported even if the contribution has not yet been deposited in the Candidate's campaign bank checking account. City Charter Article XIII, §4 (c) 1. Because candidates may have only one campaign bank account at any one time, deposits of contributions may not be made to other accounts to avoid the reporting requirement. City Charter Article XIII, §4 (b) 1.
- 8.2 Second Financial Report** The second financial statement shall be filed with the City Clerk by noon of the Friday of the fourth week before the Election, September 9, 2005.
- 8.3 Third Financial Report** The third financial statement shall be filed with the City Clerk by noon of the Friday of immediately preceding the Election, September 30, 2005.
- 8.4 Fourth Financial Report** The fourth financial statement shall be filed with the City Clerk by noon of the Monday immediately preceding the Election, October 3, 2005.
- 8.5 Fifth Financial Report** The fifth financial statement shall be filed with the City Clerk by noon of the 7th day after the Election, October 11, 2005.
- 8.6 Sixth Financial Report** The sixth financial statement shall be filed with the City Clerk no later than noon of the 45th day after the Election, November 18, 2005.
- 8.7 The Final Report** If the fifth financial statement is final, the Candidate may so designate on that report and will not have to file a sixth report.
- 8.8 Financial Campaign Activity After the Election** Contributions and expenditures made after the election that are related to the candidate's election campaign shall be reported on the fifth or sixth financial report, as may be applicable. Such reports must also show the total of all campaign activity in order for the Board of Ethics to determine if contributions have exceeded expenditures. Paying campaign loans or debt shall be shown as expenditures in the reports.

8.9 Excess Contributions When contributions exceed expenditures, the disposition of the excess must be reported to the City Clerk in the final financial statement. The options for disposition of the excess are (1) return the contribution to the contributor (2) remit the excess in the City's General Fund (3) give the excess to a charity which must be identified by the Candidate or (4) any combination of the first three. Proof of proper disposition may be required by the Board of Ethics and Campaign Practices, City Charter Article XIII, §4 (f).

8.10 Filing after the Sixth Report There is no requirement that candidates who are not elected file further campaign disclosure reports after the sixth report. Such candidates are encouraged to file supplements to the sixth or final report if additional fund raising or expenditures occur after the sixth report is due.

Candidates who are elected must file quarterly reports under City Charter Article XII, §5(c). The quarterly reports submitted by elected officials should segregate the reporting of funds received and expenditures made related to their election campaign after the sixth report from activities related to campaign or pre-campaign activity for any election campaign other than the one which is the subject of the sixth report.

If a candidate is on the ballot for a run-off election, then the filing of disclosure reports is repeated for that election, as outlined in Step 10, below.

8.11 The Single Campaign Bank Account Candidates will be provided a letter from the City Clerk on this matter. It is recognized that candidates often raise funds prior to filing the declaration of candidacy. If a bank refuses to allow an account to be opened in the name of a campaign because the declaration of candidacy has not yet been filed, the candidate may open a bank account that is dedicated exclusively to the candidacy for city office. After filing a declaration of candidacy, the candidate may open a second bank account in the name of his/her campaign if the previous account is closed at the same time the second account is opened. All records related to both accounts must be made available to the Board of Ethics and Campaign Practices.

STEP 9 ATTEND THE MANDATORY MEETING WITH BOARD OF ETHICS AND CAMPAIGN PRACTICES

Between Friday of the week before the election and Election Day each candidate or the candidate's treasurer shall appear before the Board at a time and place designated by the Board. The City Clerk will provide the candidates with the notice of this meeting, City Charter Article XII, §4 (i) 3.

STEP 10 RUN-OFF ELECTION

The run-off election provisions of City Charter Article II, § 7 were previously declared unconstitutional by a State District Court. As a result, there were no run-off elections from 1997

through 2003. In the General election held November 2, 2004, the voters approved a constitutional amendment that had the effect of reinstating Article II, §7. As a result, the following applies to run-off elections.

- 1. The 40% Requirement** If no candidate for City Council or Mayor receives 40 percent of the vote cast, the two candidates who received the highest number of votes will be on the ballot for the run-off election.
- 2. Date of Run-Off Election** The City Council and Mayor will set the date for the run-off election. If the run-off election is on a Tuesday, then it will be held on November 15, 2005.
- 3. Contributions Limits for Run-off Election** Campaign contribution limits will apply to the run-off election in the same amounts that applied to the October 4, 2005 regular election. City Charter Article XIII, §4 (e) states that no candidate shall, for any one election, allow total contributions from any one person of more than 5 % of the annual salary for such office at the time of filing the Declaration of Candidacy. After certification of the October 4, 2005 election, the City Clerk will inform run-off candidates if the amount that may be contributed has changed since August 9, 2005.
- 4. Reporting Contributions and Expenditures** Campaign disclosure reports shall be required for the run-off election on the Friday of the fourth week before the run-off election, the Friday and Monday before the run-off election, seven days after the run-off election and forty-five days after the run-off election. Separate reports are required for the run-off election in order to have proper identification of contribution limitations. A schedule of exact days of disclosure reports for the run-off election is due, will be provided when the date for the run-off election is established.
- 5. Mandatory Meeting with Board of Ethics and Campaign Practices** Candidates in the run-off election shall meet with the Board within three days prior to the run-off election for review of the run-off election disclosure reports. The candidates will be notified of the day and time of this meeting by the City Clerk. City Charter Article XII, §4 (i) 3.

STEP 11 TAKE THE OATH OF OFFICE

Candidates certified by the City Clerk as having been elected shall personally appear before the City Clerk no later than 7:00 p.m. on the sixth day following the election for presentation of the certificate of election. No later than 7:00 p.m. on the sixth day following the election candidates who have been certified shall take the oath of office. The oath of office may be administered by the City Clerk or anyone of the candidate's choosing who is authorized to by law to administer oaths. §3-8-33 NMSA 1978 and §2-4-8 ROA 1994. City Ordinance §2-4-8 (B) ROA 1994 also provides that a public ceremony repeating the swearing in shall be conducted on December 1 following each election.

If a candidate fails to appear on the sixth day after the election, then such candidate or his/her authorized personal representative shall file an affidavit with the City Clerk not later than 5:00 p.m. on the tenth day following the election stating that the candidate was unable to

personally appear and the reason. If such an affidavit is timely filed, the candidate shall appear before the City Clerk no later than 5:00 p.m. on the thirtieth day after the election to take the oath office. §3-8-33 NMSA 1978.

PART II

CAMPAIGN CONTRIBUTIONS AND EXPENDITURES, LIMITATIONS AND REPORTING REQUIREMENTS

- 1. Campaign Contribution Limits** Campaign contributions are limited to five percent of the annual salary of the office being sought. This calculation is based on the salary for such office at the time the declaration of candidacy is filed. City Charter Article XIII, §4 (e). The City Clerk will provide the exact dollar amount on the day the declaration of candidacy is to be filed.
- 2. Campaign Expenditure Limits** Due to rulings by the Federal Courts and the refusal of the United States Supreme Court in 2004 to consider the lawsuits involving the City's expenditure limitations, the Campaign expenditure limitations established in City Charter Article XIII, §4 (d) are not valid and will not be enforced by the City.
- 3. Calculating Contributions** The Rules and Regulations of the Board of Ethics and Campaign Practices contains examples of contribution calculations. In-kind contributions are subject to the limitation on contributions and the fair market value of such contributions is included in the contribution limitation. The limitation on contributions applies to each person and business entity regardless of who is the owner. Contribution limits apply to individuals and not to families.
- 4. Data Concerning Contributors** City Charter Article XIII, §4 (c) 1. B requires that for each contributor, the candidate list the name, residential street address, principal business or occupation, the name and address of employer and nature of employer's business. In the instance of contributions from business entities, the address of the business headquarters shall be given as well as the nature of the business. There is no requirement that the names of the principal individuals, shareholders or other investors of such contributor business be provided. If the business is a wholly owned subsidiary of another business, such other business entity should be identified for purposes of determining the cumulative amount of the contributions to calculate whether the maximum contribution has been exceeded.
- 5. Contributions Received Prior to Declaration of Candidacy** Accepting contributions in excess of the limit is punishable under City Charter Article XIII, §10 which includes the provision that the Board of Ethics and Campaign Practices may impose fines up to \$500 for each violation of the Election Code. Past practice concerning excess contributions has included allowing the candidate to refund that portion of the contribution in excess of the limit to the contributor and reflecting that change on the next financial disclosure report. Prospective candidates receiving campaign contributions before the date the declaration of candidacy is due cannot know with exact certainty what the contribution limits will be. In order to avoid the possibility that the Board of Ethics and Campaign Practices might assess a fine, it is suggested that candidates who seek

contributions before the limits are set, use the limits as they existed in the previous city election or based on the actual annual salary on the date of the contribution. If the limits are raised for the upcoming election at the time of filing the declaration of candidacy, the candidate may then inform the contributor that he or she may now contribute the increased amount.

PART III OTHER DATES OF INTEREST

1. **Political signs** The first day political signs can be displayed under §14-16-3-4 B(3) ROA 1994 (Page 214) is sixty days before the Election, August 5, 2005. The size limits are six square feet for residential zones and thirty-two square feet for non-residential zones. The City Clerk will provide candidates with a copy of the Zoning Enforcement Political Sign Regulations.
2. **Withdrawal of Candidacy** August 16, 2005, Forty-nine days before the Election, is the last day to withdraw candidacy (§3-8-27 I. NMSA 1978).
3. **Write-In Candidates** August 23, 2005, Forty-two days before the Election, is the last day for filing as a write in candidate (§3-8-27 L (1)(2) NMSA 1978).
4. **Certification of Write In Candidates** The City Clerk must certify write-in candidates forty-one days before the Election, August 24, 2005, (§3-8-27 L 3 NMSA 1978).
5. **Absentee Ballots** Thirty-five days before election is the first day for the City Clerk to mail absentee ballots, August 30, 2005.
6. **Withdrawal of Write-in Candidates** September 6, 2005, 28 days before the Election, is the last day for write-in candidates to withdraw their candidacy (§3-8-27 L NMSA 1978).
7. **Voter Registration Closes** Voter registration closes twenty-eight days before the Election (§1-4-8C NMSA 1978), September 6, 2005.
8. **Absentee ballots cast in Person** The first day to cast absentee ballots in person is twenty-seven days before the Election (§3-9-4K NMSA 1978), September 7, 2005. This is the date for casting the paper absentee ballots sent to a voter by the City Clerk and is not the date to begin voting on machines. Early voting on machines begins September 14, 2005.
9. **Certification of Voting Machines** September 27, 2005, seven days before election, is the last day to inspect and certify voting machines (§3-8-14 E. NMSA 1978). The last day to object to use of a particular voting machine is two days after the machine has been certified. (§3-8-14 I.NMSA 1978). Candidates are given notice of the inspection time and place so that they may attend and observe.

10. **Absentee Voting In Person Deadline** The last day for City Clerk to mail absentee ballots is four days before the election (§3-9-4N. NMSA 1978) and last day to cast absentee ballots in person (§3-9-4K. NMSA 1978) is the Friday before the Election.
11. **Challengers and Watchers** Four days before the election at 5:00 p.m. is the deadline for candidates to file petition appointing challengers and watchers. (§3-8-31 B. NMSA 1978).
12. **City Council Observers** The day before the election at 3:00 p.m. is the deadline for City Council to appoint observers (§3-8-31K. NMSA 1978).
13. **Certification of Election** The Canvassing Board certifies the election results on the third day after the election.
14. **Take Office** Candidates certified as being elected take office on December 1, City Charter Article IV, §4 and Article. V, § 2.

PART IV MEASURE FINANCE COMMITTEES

1. **Definition of a Measure Finance Committee** Measure Finance Committees include any person or more than one person acting jointly in aid of or in opposition to the qualification for the ballot or voter approval or disapproval of one or measures on the ballot or the election to, or recall from office of one or more candidates. City Charter Article XIII, §2 (j). One or more people who accept contributions or make expenditures for the purpose of opposing the effort of anyone seeking to have their name placed on the ballot for city office shall be a Measure Finance Committee, City Charter Article XIII, § 4 (c) 1. D.
2. **Campaign Finance Disclosure** A Measure Finance Committee must follow all of the rules set out above for candidates for finance disclosure except that if a Measure Finance Committee is formed after a reporting period it must register and report thereafter pursuant to City Charter Article XIII, §4 (c) 3. There are no campaign contribution limitations for Measure Finance Committees, however there are requirements on reporting large contributions under City Charter Article XIII, § 4 (k).

PART V REPORTING BY ELECTED OFFICIALS

1. **The Reporting Requirement** The Mayor and City Councilors are required to file financial disclosure statements quarterly, reporting contributions and expenditures related to any campaign or pre-campaign activity for any elected office, not just City office. City Charter Article XII, §5 (c). Campaign expenditures that are reported under City Charter Article XIII, §4 do not have to be repeated on the quarterly report. However, contributions and expenditures reported on the quarterly report that are subsequently used in a campaign for Mayor or Councilor will have to be reported a second time on the election financial disclosure reports required under City Charter Article XIII. If no

contributions are received or expenditures made during a quarter, no report is required. Reports are filed with the City Clerk.

- 2. Election Reports and Quarterly Reports** Elected City officials who have campaign financial activities after the sixth financial report required pursuant to City Charter Article XIII are required to include such activities in their quarterly report. Such activities should be designated separately from funds raised or expenditures made for other campaigns or pre-campaign activities unrelated to the past city election for which the official is reporting. Such financial activity that is subsequent to the sixth campaign disclosure report also should include the cumulative totals for the entire campaign in order that the auditor for the Board of Ethics and Campaign Practices may confirm that contributions for such election do not exceed expenditures. If a contribution creates such excess, then the official may designate the excess as a contribution to a separate campaign or pre-campaign activity, if such activity exists. If no such activity exists, then the excess must be disbursed according to City Charter Article XIII, §4 (f) and the method of disbursement must be reported to the Board of Ethics and Campaign Practices.
- 3. Limiting the Report** Officials are required to report only campaign and pre-campaign financial activity under Article XII, §5 (c). Contributions for other purposes need not be reported in the quarterly report. For example, contributions received for paying the expenses of a constituent newsletter would not be reported unless the newsletter was used as campaign material rather than issue discussion. Contributions received for non-campaign purposes may be subject to the prohibition of accepting a gift under City Charter Article XII, §4 (a) 4.

PART VI FORMS

The sample forms that follow are provided for informational purposes only and may not be used. The forms used by candidates and Measure Finance Committees must be obtained from the City Clerk's office.

Samples of the forms referenced in this Guide follow this page and include:

1. Petition Form
2. Declaration of Candidacy and Affidavit Authorizing Filing
3. Candidate's Acknowledgment of Familiarity with Codes
4. Authorization Letter to Bank
5. Candidates Campaign Bank Account Statement
6. Candidate's Financial Disclosure Statement
7. Declaration of Write-in Candidacy

8. Affidavit to Withdraw Candidacy
9. Candidate Acknowledgment of Campaign Web Reporting Training