CHAPTER 5

Selection of Forms of Municipal Government

**SECTION 5‑5‑10.** Forms of municipal government; selection of form of government made by ordinance of municipal council.

The forms of municipal government in this State shall be as follows:

(a) the mayor‑council form provided for in Chapter 9;

(b) the council form provided for in Chapter 11;

(c) the council‑manager form provided for in Chapter 13.

All municipalities shall adopt one of these forms in the manner prescribed in this chapter.

The selection shall be made by ordinance of the municipal council after at least one public meeting. The form selected shall be the form most nearly corresponding to the form in effect in the particular municipality on March 1, 1974, as determined by the municipal governing body; provided, however, that those municipalities which adopted a new form of government through a referendum after March 1, 1974, and prior to June 1, 1975, shall adopt the form selected by the referendum.

If a municipality failed to adopt one of the above forms of government within fifteen months of December 31, 1977, it shall be considered to have forfeited its articles of incorporation, until such time as the municipality adopts one of these forms of government and certifies the adoption to the office of the Secretary of State. Upon certification by the governing body of the municipality of the adoption of one of the forms of government to the office of the Secretary of State, the articles of incorporation for the municipality shall be reinstated. All actions taken by the governing body municipality during the period of forfeiture shall be deemed to have been ratified by the governing body of the municipality upon reinstatement of the articles of incorporation. The reinstating municipality must not be contiguous to any existing municipality.

HISTORY: 1962 Code Section 47‑26; 1975 (59) 692; 1976 Act No. 656; 1996 Act No. 338, Section 1.

**SECTION 5‑5‑20.** Petition or ordinance calling for special election to determine form of government after date of official council action.

After the date of official council action if a petition executed by fifteen percent of the qualified electors is presented to the municipal governing body, certified by the county election commission, for an election to determine or change the form of government or if the municipal governing body shall by ordinance call for such an election, the municipal governing body shall conduct a special election not later than ninety days nor earlier than thirty days after the receipt of the certified petition or the passage of the council ordinance; provided, however, that no referendum shall be held pursuant to ordinance of the municipal council sooner than two years following the date the form of municipal government is initially selected pursuant to the provisions of this chapter.

HISTORY: 1962 Code Section 47‑27; 1975 (59) 692; 1976 Act No. 642.

**SECTION 5‑5‑30.** Determination of form of government by governing body effective until changed by election; subsequent elections.

Until changed by an election, the selection of the form of government as initially determined by the governing body by ordinance shall remain effective. The ordinance selecting the form of government shall be filed in the office of the Secretary of State who shall issue an appropriate certificate of incorporation to the municipality. No other such election shall be held for a period of four years after an election is held pursuant to Section 5‑5‑20.

HISTORY: 1962 Code Section 47‑28; 1975 (59) 692.

**SECTION 5‑5‑40.** Preparation of election ballot; majority of votes cast by qualified electors required to effect change in form of government.

In any election to determine a change of a form of government of a municipality, the question must be framed by the governing body and printed on the prepared ballot in the following form: “Shall the municipality of (name of municipality) change its form of government from (form selected by council or by prior election) to (form or forms requested by petition or by ordinance)?

Yes []

No []

Those in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘YES’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘NO’.”

To effect a change in the form of government a proposed form must receive a majority of the votes cast by the qualified electors of the municipality in the election.

HISTORY: 1962 Code Section 47‑29; 1975 (59) 692; 1990 Act No. 342, Section 1.

**SECTION 5‑5‑50.** Notice, expenses and conduct of elections.

Notice of all special elections relating to a change in form of government shall be published at least three weeks in advance in a newspaper of general circulation in the municipality in which such election is to be held. The municipality shall pay all expenses incurred in the conduct of any election. Elections shall be conducted in accordance with the provisions of general law regulating special elections as they apply to referendums in this State, mutatis mutandi.

HISTORY: 1962 Code Section 47‑29.1; 1975 (59) 692.

**SECTION 5‑5‑60.** Service of existing members of governing body after adoption of or change to one of alternate forms of government.

Upon initial adoption of or on any change to one of the alternate forms of government, all members of the existing governing body shall continue to serve their elected terms and until their successors are elected and qualify.

HISTORY: 1962 Code Section 47‑29.2; 1975 (59) 692.