




VILLAGE OF OAK PARK
LAW DEPARTMENT

MEMORANDUM

To: Chair David Pope and Members of the Taxing Bodies Efficiency Task Force
cc: Cara Pavlicek, Village Manager
Lisa Shelley, Deputy Village Manager
Josh Ellis, Vice President, Metropolitan Planning Council
Bob Dean, Consultant, Metropolitan Planning Council
From: Paul L. Stephanides, Village Attorney 
Date: June 18, 2018
Re: Timing of Non-Binding Advisory Election Referendum Questions

INTRODUCTION

Per the request of the Taxing Bodies Efficiency Task Force ("Task Force"), this memorandum summarizes the timing requirements to place a non-binding advisory referendum question on an election ballot. The general timing requirements for ballot questions were discussed in my May 10, 2018 memorandum to the Task Force and this memorandum discusses those requirements in greater detail as they relate to non-binding advisory referendum questions.

DISCUSSION

An advisory public question on an election ballot has no legal effect from its adoption or rejection. 10 ILCS 5/28-6. A non-binding advisory referendum question may only be submitted to the voters at a "regularly scheduled election" at which the voters are "to cast votes for any candidates for nomination for, election to or retention in public office." 10 ILCS 5/28-1. Not more than three such questions may be on a particular election ballot. 10 ILCS 5/28-1.

The Village Board may place an advisory question of public policy on an election ballot pursuant to a duly adopted resolution or ordinance. The applicable state statute giving the Board such authority provides as follows:

Advisory referenda. By a vote of the majority of the members of the city council, the council may authorize an advisory question of public policy to be placed on the ballot at the next regularly scheduled election in the municipality. The city council shall certify the question to the proper election authority, which must submit the question at an election in accordance with the Election Code.

65 ILCS 5/3.1-40-60.

The ordinance or resolution must be adopted not less than 79 days prior to a regular election for the question to appear on the ballot pursuant the following language from the Illinois Election Code:

Resolutions or ordinances of governing boards of political subdivisions which initiate the submission of public questions pursuant to law must be adopted not less than 79 days before a regularly scheduled election to be eligible for submission on the ballot at such election.

10 ILCS 5/28-2(c). For the upcoming November 6, 2018 election, the deadline to adopt such an ordinance or resolution is August 20, 2018.

After adoption of the resolution or ordinance, the question must be certified by the Village Clerk to be placed on the ballot not less than 68 days prior the regularly scheduled election:

Not less than 68 days before a regularly scheduled election, each local election official shall certify the public questions to be submitted to the voters of or within his political subdivision at that election which have been initiated by petitions filed in his office or by action of the governing board of his political subdivision.

10 ILCS 5/28-5. For the upcoming election, the deadline for certification is August, 30, 2018.

An advisory question can also be placed on a ballot pursuant to “a written petition signed by a number of voters equal to at least 8% of the total votes cast for candidates for Governor in the preceding gubernatorial election by the registered voters” in the Village. 10 ILCS 5/28-6. Such a petition must be filed with the Village Clerk “not less than 92 days” prior to the applicable election. 10 ILCS 5/28-2. The deadline for the upcoming November 6, 2018 election for the submission of a petition is August 6, 2018.

CONCLUSION

The above summarizes the requirements for the submission of a non-binding advisory referendum question to the voters at an election. Please let me know if there are any questions.