

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 965**

Housekeeping Amendments to Multnomah County Code Chapter 5, Elections, to Clarify and  
Update Elections Procedures

(Language ~~striken~~ is deleted; double- underlined language is new.)

**Multnomah County Ordains as follows:**

**Section 1.** MCC §§ 5.001 through 5.009 are amended as follows:

**§ 5.000\* VACANCIES IN OFFICE**

~~§ 5.001~~ **Title.**

~~— This subchapter shall be known as the county Vacaney in Office Code.~~

**§ 5.002 Definitions.**

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

***DIRECTOR.*** The Director of the Division of Elections of the county, or ~~the~~ authorized representative.

***ELECTIVE OFFICE.***

- (1) ~~The Chair of the Board;~~
- (2) Auditor;
- (3) Commissioner; and
- (4) Sheriff.

***TERM OF OFFICE.*** The term of office of the last person elected to the office that ~~which~~ is vacant.

**§ 5.003      Vacancy In Office.**

~~An A county~~ elective office of the county shall become vacant:

(A) Upon the incumbent's:

(1) Death;

(2) Adjudicated incompetence;

(3) Conviction of a felony, other offense pertinent to the office, or unlawful destruction of public records;

(4) Resignation from office;

(5) Recall from the office; or

(6) Ceasing to reside within the county, or inability to obtain a corporate surety bond as required under Charter § 4.10(2);

(B) Upon the failure of the person elected or appointed to the office to qualify for it within ten days after the time for the term of office to commence;

(C) In the case of a member of the Board, upon absence:

(1) From the county for 30 consecutive days without the consent of the Board;

or

(2) From Board meetings for 60 consecutive days without like consent; or

(D) In the case of the Chair, upon absence from the county for 30 consecutive days without consent of the Board.

***Cross-reference:***

*Board of County Commissioners, see Chapter 3*

**§ 5.004      Filling Of Vacancy.**

(A) ~~The Board, u~~Upon becoming aware of a vacancy in an elective office, the Board must promptly determine and declare the date of vacancy.

(B) If a vacancy occurs in an elective office of the county and the term of office expires one year or more after the vacancy occurs, then a person will be elected at the next available election for which the state law filing requirement can be met to fill the vacancy for the remainder of the term of office.

(C) If a vacancy occurs in an elective office of the county and the term of office expires less than one year but 90 days or more after the vacancy occurs, then the Board shall appoint a person to fill the vacancy for the remainder of the term of office.

(D) If a vacancy occurs in an elective office of the county and the term of office expires less than 90 days after the vacancy occurs, the vacancy shall not be filled.

**§ 5.005 Designation Of Interim Elective Officers.**

(A) *Purpose.*

(1) When a vacancy occurs in elective county offices, ~~the Charter provides for filling the vacancies~~ must be filled by election or appointment, depending on the time remaining before expiration of the affected terms of office ~~(Charter § 4.50(1)).~~

(2) ~~Charter § 4.50(3) provides that in the event of a~~ If there is a vacancy in an elective office, an interim occupant of the office will shall serve until the vacancy is filled by election or appointment. ~~This section carries out~~ The Charter requires that the Board prescribe procedures to designate interim occupants of elective offices.

(B) *Interim Officer Designation.*

(1) County elected officials mustshall each designate a person to perform their responsibilities. The designation mustshall be in writing and filed with the clerk of the Board. If the Board does not confirm the designated person by a majority vote within 60 days of filing, the designating elected official mustshall designate another person for Bboard confirmation.

(2) When there is a vacancy, the designated person shall serve as acting Chair, Commissioner, Auditor, or Sheriff until the vacancy is filled by election or appointment, as appropriate under the Charter.

(3) ~~If in the event~~ a person for an elective office has not been designated, or if the designated person is unable to immediately serve, the Board mustshall promptly meet to fill the vacancy on an interim basis. The appointment mustshall be in writing and filed with the clerk of the Board.

(4) All persons designated to fill elective offices on an interim basis mustshall meet the Charter qualifications for appointees to such offices.

**§ 5.006 Appointment By Board.**

(A) ~~The Board, in~~ filling a vacancy, the Board may make such inquiries and interviews as ~~it~~they considers necessary to select the appointment. The appointment ~~must~~shall be made at a regular or special Board meeting of the Board.

(B) The Board ~~will~~shall use the following procedures in the appointment process:

(1) Public notice ~~must~~shall be given to appropriate neighborhood organizations, cities, civic groups, a newspaper of general circulation and other recognized groups.

(2) A deadline ~~must~~shall be established for submitting applications at least two weeks after such notice.

(3) The person to fill the vacancy ~~must~~shall be appointed from those applicants nominated and seconded for consideration by members of the Board. The Board clerk ~~will~~shall announce the results of each ballot and ~~will~~shall record each commissioner's ballot. An applicant who receives a majority of the votes by the current Board members ~~will~~shall be appointed to the vacant position. If no applicant receives a majority vote on the first ballot, the Board shall continue to vote on the two applicants who receive the most votes until an applicant receives a majority vote of the Board.

**§ 5.007 Election To Fill Vacancy.**

If an election is required to fill a vacancy, the Board ~~must~~shall call such an election on the next available election date for which the established by state law filing requirements can be met, or may call an emergency election if it has been demonstrated that the public interest would be harmed by waiting. The date of the emergency election must allow sufficient time to meet the requirements of § 5.008.

**§ 5.008 Nomination To Fill Vacancy.**

Nomination for election to fill a vacancy ~~must~~shall be made by the petition or declaration method established by state law for the selection of candidates for nomination at a primary election. The Board must set a filing deadline at the time it calls an election. Such petition or declaration shall be filed with the director. The filing deadline must not be later than the 47th day before prior to the date of the election.

**§ 5.009 Special Runoff Election.**

(A) If no candidate receives a majority of votes cast at an election to fill a vacancy, the Board shall call a special runoff election in which the names of the two candidates receiving the highest number of votes ~~will~~shall appear on the ballot.

(B) The special runoff election may be held on the next available election date for which the established by state law filing requirements can be met, or may be an emergency election if it has been demonstrated that the public interest would be harmed by waiting. The special runoff election ~~must~~shall occur not less than 47 days after the date of the election ~~first~~ referred to in subsectiondivision (A) ~~of this section.~~

**Section 2.** MCC §§ 5.100 through 5.108 are amended as follows:

**§ 5.100\* INITIATIVE AND REFERENDUM**

**§ 5.100- Definitions.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**COUNTY LEGISLATION.** Any ordinance ~~that~~which has been or lawfully may be enacted by the county, and any proposed amendment, revision or repeal of the Charter, It, ~~but~~ does not include any property tax ~~levy, tax base,~~ or bond measure or any emergency ordinance ~~adopted under Chapter V of the Charter.~~

**ELECTOR.** Any person eligible under state law to vote in ~~legal voter of~~ the county.

**MEASURE.** Any county legislation, or property tax ~~levy, tax base,~~ or bond measure proposed for adoption, amendment, revision, repeal or referral through the initiative or referendum procedures prescribed by this subchapter.

**REGULAR ELECTION.** Any election ~~at which a measure is submitted to the electors on a biennial primary, presidential preference primary or general election date.~~

**SPECIAL ELECTION.** Any election ~~at which a measure is submitted to the electors on a date other than a regular election date.~~

***Cross-reference:***

*Initiative and referendum, see Charter § 11.30*

**§ 5.101      Prospective Petition.**

(A) ~~Before~~Prior to circulating among the electors a petition proposing an initiative or referendum ~~measure for county legislation among the electors~~, the chief petitioners ~~must~~shall file a prospective petition with the director, ~~in such form as~~ the director will ~~shall prescribe or provide the form~~, showing:

(1) The signatures, printed names and mailing addresses of not less than one and not more than three chief petitioners, all of whom must be electors of the county;

(2) In the case of initiative ~~petitions~~measures, the text of the county legislation proposed for adoption, amendment, revision or repeal, and, where applicable, the title, ordinance number, and charter or code ordinance section numbers proposed for amendment, revision or repeal;

(3) In the case of referendum ~~petitions~~measures, the text of the county legislation proposed for referral, and where applicable, the title, ordinance number or ~~code ordinance~~ section numbers of the county legislation proposed for referral; and

(4) Whether one or more persons will be paid for obtaining signatures on the petition.

(B) The director ~~must~~shall inscribe the date of filing upon any prospective petition filed in the director's office.

(C) After a prospective petition for a ~~referendum of county legislation~~measure ~~is~~has ~~been~~ filed with the director, and the director ~~has determined~~ that the prospective petition complies with the requirements of this subchapter, and other applicable law, the director ~~will~~shall certify to one of the chief petitioners that petitions for the ~~referendum measure proposed by the prospective petition~~ may be circulated among the electors, in accordance with the procedures set forth in § 5.103.

**§ 5.102      Ballot Title; Appeal.**

(A) Prior to the conclusion of the fifth business day after a prospective petition for an initiative is filed ~~which proposes an initiative measure and which~~ complies with the requirements of this subchapter and other applicable law, the director ~~will~~shall review the text of the proposed initiative to determine whether ~~it~~the text complies with the single subject requirement and ~~shall determine if~~whether the initiative proposes “county legislation.”

(B) If the proposed text does not meet the requirements of ~~subsection~~division (A) ~~of this section~~, the director ~~must~~shall notify the chief petitioner by certified mail, return receipt requested, that the prospective petition does not meet the single subject or legislative requirement.

(C) Any elector ~~who~~that is dissatisfied with the director's determination ~~by the director,~~ that the proposed initiative does not meet the requirements of subsection (A) ~~of this section,~~ may petition the circuit court for the county. The petition must be filed not later than the seventh business day after the written determination is ~~made~~ by the director.

(D) (1) If the proposed initiative meets the requirements of ~~subsection~~division (A) ~~of this section,~~ or in the case of a referendum petition that has been certified for circulation, the director ~~will~~shall transmit two copies of the prospective petition to the ~~county~~district attorney of the county. ~~The county attorney has who shall,~~ within five business days after receiving the prospective petition, ~~to~~ prepare a ballot title for the proposed measure ~~proposed~~ and an explanatory statement for the voter's pamphlet. The ballot title ~~must~~shall conform to the requirements of state law.

(2) The explanatory statement ~~must~~shall consist of an impartial, simple and understandable statement explaining the measure and its effect. The explanatory statement shall not exceed 500 words.

(3) After preparing the ballot title and explanatory statement, the ~~county~~district attorney ~~will~~shall immediately return one copy of the prospective petition, ballot title and explanatory statement to the director and ~~shall immediately transmit~~ one copy of the ~~prospective petition, ballot title and explanatory statement~~ to one of the chief petitioners.

(E) ~~After~~ ~~The director,~~ upon receiving a ballot title and explanatory statement for a county measure to be referred or initiated from the ~~county~~district attorney, ~~the director must~~shall publish in the next available edition of a newspaper of general circulation in the county a notice of receipt of the ballot title and explanatory statement. ~~The including~~ notice must state that an elector may file a petition for review of the ballot title or explanatory statement not later than the date referred to in ~~subsection~~division (F) ~~of this section.~~

(F) ~~After~~Upon receiving the prospective petition, ballot title and explanatory statement from the ~~county~~district attorney, the director ~~must~~shall inscribe the date of receipt on it. Within seven business days after that date, any elector may petition the circuit court for the county to challenge the ballot title or explanatory statement prepared by the ~~county~~district attorney. ~~After~~At the end of the seven-day period, or following the final adjudication of any challenge, the director ~~must~~shall certify the ballot title as prepared by the ~~county~~district attorney or as prescribed by the court, ~~as the case may be,~~ to one of the chief petitioners.

(G) Any person filing a petition of review with the circuit court must file a copy of the challenge with the director not later than the end of the business day next following the date the petition is filed with the circuit court. ~~Nothing in this requirement~~section does not ~~is intended to~~ invalidate a petition that is timely filed with the circuit court.

(H) The procedures set forth in ~~subsections~~divisions (A) through (G) ~~of this section~~ for preparation of, and challenges to, ballot titles and explanatory statements for initiative measures ~~shall~~also apply to referendum measures. However, the completion of such procedures ~~are~~shall not be a prerequisite to the circulation of petitions for referendum measures under §

5.103. ~~5~~ and ~~B~~ ballot titles need not be stated on petitions circulated to propose referendum measures.

### **§ 5.103 Petition And Circulation Requirements.**

(A) After the requirements of § 5.101(C) ~~are have been met forin the case of~~ referendum ~~measurespetitions~~, and after the requirements of § 5.102(F) ~~arehave been met forin the case of~~ initiative ~~measurespetitions~~, the chief petitioners and ~~any other persons eligible to~~ circulate initiative and referendum petitions under state law may circulate a petition for the measure among the electors. The petition (cover sheet and signature sheet) ~~mustshall~~ conform to the requirements of state law.

(B) The petition identification number will be assigned by the director.

(C) Each signature sheet of a referendum petition ~~mustshall~~ contain the title, ordinance number or ~~codeordinance~~ section numbers of the county legislation proposed by referral and the date it was adopted by the ~~Boardecounty governing body~~.

(D) No signature sheet ~~mayshall~~ be circulated by more than one person. Each signature sheet ~~mustshall~~ contain a statement signed by the circulator that each elector who signed the sheet did so in the circulator's presence, and, to the best of the circulator's knowledge, each such elector is a legal voter of the county and that the information placed on the sheet by each such elector is correct.

### **§ 5.104 Filing And Percentage Requirements; Verification.**

(A) The director ~~willshall~~ accept for signature verification in accordance with this subchapter only petitions ~~thatwhich~~ comply with the requirements of this subchapter and other applicable law.

(B) No petition ~~mayshall~~ be accepted for filing unless it contains at least the required number of verified signatures to submit the measure to the electors, as prescribed by ~~subsectionsdivisions~~ (G), (H) or (I) ~~of this section~~.

(C) No initiative petition ~~mayshall~~ be accepted for signature verification more than six months after the date of the director's certification under § 5.102(F).

(D) Any petition to refer legislation adopted by the Board must be submitted for signature verification not more than 90 days after the Board's adoption of such legislation.

(E) An initiative or referendum petition ~~mayshall~~ not be accepted for signature verification if it contains less than 100% of the required number of signatures.

(F) Upon the acceptance of a petition, the director ~~must~~ shall verify the signatures thereon. Such verification may be performed by random sampling in a manner approved by the Secretary of State. Within ~~30~~ 15 days after the director's acceptance of a petition, the director ~~must~~ shall certify to the Board whether the petition contains a sufficient number of qualified signatures to require the submission of the proposed measure to the electors, and shall also state in the certificate the number of qualified signatures prescribed by ~~subsections~~ divisions (G), (H) or (I) ~~of this section~~ to require the proposed county legislation measure to be submitted to the electors. The petition ~~will~~ shall be considered filed as of the date of the director's certification.

(G) An initiative measure proposing the amendment, revision or repeal of the Charter, or parts thereof, ~~will~~ shall be submitted to the electors if the number of qualified signatures on the petition ~~therefor~~ equals or exceeds 8% of the total number of votes cast in the county for all candidates for governor of Oregon at the ~~last most recent~~ previous general election at which the office of governor was filled for a four-year term.

(H) An initiative measure proposing the adoption, amendment or repeal of any other county legislation, or parts thereof, ~~will~~ shall be submitted to the electors if the number of qualified signatures on the petition ~~therefor~~ equals or exceeds 6% of the total number of votes cast in the county for all candidates for governor at the ~~last most recent~~ previous general election at which the office of governor was filled for a four-year term.

(I) A referendum measure ~~will~~ shall be submitted to the electors if the number of qualified signatures on the petition ~~therefor~~ equals or exceeds 4% of the total number of votes cast in the county for all candidates for governor at the ~~last most recent~~ previous general election at which the office of governor was filled for a four-year term.

#### **§ 5.105 Measures Referred By Board.**

(A) The Board may directly refer to the electors any county legislation adopted by it and any proposed property tax ~~levy, tax base,~~ or bond measure, and may directly refer to the electors proposed amendments, or revisions or the repeal of the Charter or parts thereof. The Board must refer all amendments proposed by the Charter Review Committee.

(B) ~~In lieu of the procedures for preparation of a ballot title by the district attorney set forth in §§ 5.101 and 5.102, in the case of measures the Board refers under division (A) of this section, The county attorney will~~ the Board shall prepare a ballot title and explanatory statement that conforms to the requirements of state law, ~~and~~ The Board will shall certify and file the such ballot title and explanatory statement ~~to~~ with the director.

(C) The director, ~~upon receiving a ballot title and explanatory statement for a county measure to be referred from the Board, shall~~ will publish in the next available edition of a newspaper of general circulation in the county a notice of receipt of the ballot title and explanatory statement including notice that an elector may file a petition for review of the ballot title or explanatory statement not later than the date ~~set referred to in subsection~~ division (D) ~~of this section.~~

(D) Any elector may petition the circuit court to challenge the ballot title or explanatory statement ~~certified~~prepared by the Board. Such petition must be filed with the circuit court within seven business days of the Board's ~~certification~~filing of the ballot title. Any person filing a petition of review with the circuit court must file a copy of the challenge with the director not later than the end of the business day next following the date the petition is filed with the circuit court. ~~Nothing in this requirement section does not is intended to invalidate a petition that is timely filed with the circuit court.~~

(E) A measure ~~will~~shall be considered ~~referred~~filed under this section as of the date the Board ~~delivers its certified~~certified its ballot title ~~with~~to the director.

#### **§ 5.106      Adoption or Election Dates.**

(A) Upon receiving the director's certification that a petition has been filed with sufficient qualified signatures to require the proposed ~~county legislation~~measure to be submitted to the electors under § 5.104(F), ~~the Board may either by ordinance adopt the proposed legislation or upon referring the measure on its own motion under § 5.105, the Board shall call an election for submission of the legislation~~measure to the electors. The Board may also call an election to submit county legislation to the electors upon referral under § 5.105.

(B) The Board ~~must~~shall call the election on the next ~~available~~available election date ~~available under state law in ORS 203.085~~ that is not sooner than the 90th day after the date of the director's certificate ~~of certifying~~sufficient signatures. ~~For In the event of a Board referral, the election on the referendum of county legislation must~~shall be held on the next ~~available~~available election date ~~for which the Board meets the filing requirements defined available under state law in ORS 254.103.~~

#### **§ 5.107      Election Notice And Procedure.**

(A) Notice of elections on measures to be submitted to the electors on regular or special election dates ~~must~~shall be given in accordance with state law.

(B) Measures referred by the Board ~~will~~shall be designated on the ballot: "Referred to the People by the Board of County Commissioners."

(C) Measures proposed by referendum petition ~~will~~shall be designated on the ballot: "Referred by Petition of the People."

(D) Measures proposed by initiative petition ~~will~~shall be designated on the ballot: "Proposed by Initiative Petition."

(E) Within 20 days following any election, the director ~~must~~ shall certify the election results to the Board. The Board ~~must~~ shall thereupon canvass the vote and enter its proclamation of the results in its ~~minutes~~ journal.

(F) A measure adopted by the electors shall takes effect 30 days after the election, unless such measure expressly provides a later effective date.

**§ 5.108 State Law Applies.**

Applicable provisions of state elections law, dealing with ~~any initiative and referendum procedures or other election matters~~ not regulated by this subchapter, shall apply to initiative and referendum procedures on county legislation, together with this subchapter. The provisions of this subchapter shall prevail over any conflicting provisions of state law ~~relating to matters subject to regulation and legislation by the county.~~

FIRST READING:

September 6, 2001

SECOND READING AND ADOPTION:

September 13, 2001



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Thomas Sponsler, County Attorney