

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

Amending MCC Chapter 5 – Elections.

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

Multnomah County Ordains as Follows:

Section 1. MCC § 5.000 – Definitions are added as follows:

§ 5.000 DEFINITIONS.

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

COUNTY LEGISLATION. Any ordinance that has been or lawfully may be enacted by the county, and any proposed amendment, revision or repeal of the Charter. It does not include any property tax or bond measure, any emergency ordinance or any part of an ordinance that deals with purely administrative matters.

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

ELECTIVE OFFICE.

(1) Chair;

(2) Auditor;

(3) Commissioner; and

(4) Sheriff.

ELECTOR. Any person eligible under state law to vote in the county.

EMERGENCY ELECTION. A special run off election or an election to fill a vacancy as specified in Section 5.005(B) or Section 5.007.

MEASURE. Any county legislation, or property tax 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 on a biennial primary or general election date.

SPECIAL ELECTION. Any election date established by State law on a date other than a regular election date.

Section 2. MCC § 5.002 is amended as follows:

~~§ 5.002~~ **DEFINITIONS.**

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

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

~~———— **ELECTIVE OFFICE.**~~

~~———— (1) Chair;~~

~~———— (2) Auditor;~~

~~———— (3) Commissioner; and~~

~~———— (4) Sheriff.~~

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

Section 3. MCC § 5.003 is renumbered and amended as follows:

§ 5.003~~1~~ **VACANCY IN OFFICE.**

A county elective office becomes 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 if a commissioner, within the commissioner district, 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.

Section 4. MCC § 5.004 is renumbered and amended as follows:

§ 5.0042 FILLING OF VACANCY.

(A) 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, in accordance with MCC 5.005.

(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.

Section 5. MCC § 5.005 is renumbered as follows:

§ 5.0053 DESIGNATION OF INTERIM ELECTIVE OFFICERS.

Section 6. MCC § 5.006 is renumbered as follows:

§ 5.0064 APPOINTMENT BY BOARD.

Section 7. MCC § 5.007 is renumbered and amended as follows:

§ 5.0075 ELECTION TO FILL VACANCY.

(A) If an election is required to fill a vacancy, the Board must call such an election on the next available May or November election date for which the state law filing requirements can be met, ~~or~~

(B) The Board may call an emergency election in conformance with ORS 203.085 if necessary to avoid extraordinary hardship to the community. ~~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.~~ will be set no sooner than the 70th day after the date of the Board resolution calling for the election. The filing deadline will be the 60th day prior to the election date.

Section 8. MCC § 5.008 is renumbered and amended as follows:

§ 5.0086 NOMINATION TO FILL VACANCY.

(A) Nomination for election to fill a vacancy must 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. The filing deadline must not be later than the ~~47~~70th day before the ~~date of the May~~ election, or the 61st day before a November election.

(B) Should the vacancy occur within 10 days of the filing deadline for a May election, or within 7 days of the filing deadline for a November election, the filing deadline shall be the 60th day prior to the election date.

Section 9. MCC § 5.009 is renumbered and amended as follows:

§ 5.0097 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 appear on the ballot.

(B) ~~The special runoff election may~~ will be held on the next available May or November election date for which the 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 occur not less than 47 days after the date of the election referred to in sub-section (A).~~

(B)(C) If the requirements for an emergency election set forth in MCC 5.005(B) are met, the Board may call for an emergency election. An emergency election under this section shall be scheduled at least 80 days after the election to fill the vacancy.

Section 10. MCC § 5.100 is amended as follows:

~~§ 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 has been or lawfully may be enacted by the county, and any proposed amendment, revision or repeal of the Charter. It does not include any prop-erty tax or bond measure or any emergency ordi-nance.~~

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

~~**MEASURE.** Any county legislation, or property tax 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 on a biennial primary or general election date.~~

~~**SPECIAL ELECTION.** Any election on a date other than a regular election date.~~

Section 11. MCC § 5.101 is renumbered and amended as follows:

§5.1010 PROSPECTIVE PETITION.

(A) Before circulating among the electors a petition proposing an initiative or referendum for county legislation, the chief petitioners must file a prospective petition with the director. The director will provide the form showing prospective petition must contain each of the following:

(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, the text of the county legislation proposed for adoption, amendment, revision or repeal, and, where applicable, the title, ordinance number, and charter or code section numbers proposed for amendment, revision or repeal;

(3) In the case of referendum petitions, the text of the county legislation proposed for referral, and where applicable, the title, ordinance number or code 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 inscribe the date of filing upon any prospective petition filed in the director's office.

~~(C) After a prospective petition for referendum of county legislation is filed with the director, and the director determines that the prospective petition complies with the requirements of this subchapter, and other applicable law, the director will certify to one of the chief petitioners that petitions may be circulated among the electors, in accordance with the procedures in § 5.103. Prior to the conclusion of the fifth business day after a prospective petition for referendum or initiative is filed and complies with the requirements of this subchapter and other applicable law, the director will review the text of the proposed initiative or referendum to determine whether it complies with the single subject requirement and determine if the initiative or referendum proposes "county legislation."~~

1. If the proposed initiative text does not meet the requirements of subsection (C), or a proposed referendum does not meet the requirements of (C), the director must notify the chief petitioner by certified mail, return receipt requested, that the prospective petition does not meet the single subject or legislative requirement.

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

Section 12. MCC § 5.102 is renumbered and amended as follows:

§ 5.102~~1~~ BALLOT TITLE; APPEAL.

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

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

~~(D) (A) (1) If the proposed initiative petition meets the requirements of § 5.100(C) subsection (A), or a referendum petition has been certified for circulation, the director will transmit two copies of the prospective petition to the county attorney. The county attorney has five business days after receiving the prospective petition to prepare a ballot title for the proposed measure and an explanatory statement for the voter's pamphlet. The ballot title~~

must conform to the requirements of state law.

(2) The explanatory statement must 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 attorney will immediately return one copy of the prospective petition, ballot title and explanatory statement to the director and one copy to one of the chief petitioners.

~~(E)~~ (B) After receiving a ballot title and explanatory statement for a county measure to be referred or initiated from the county attorney, the director must 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 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 ~~(F)~~ (C).

~~(F)~~ (C) After receiving the prospective petition, ballot title and explanatory statement from the county attorney, the director must 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 attorney. After the seven-day period, or following the final adjudication of any challenge, the director must certify the ballot title as prepared by the county attorney or as prescribed by the court to one of the chief petitioners.

~~(G)~~ (D) Any person filing a petition to challenge a ballot title or explanatory statement 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. This requirement does not invalidate a petition that is timely filed with the circuit court.

~~(H)~~ (E) The procedures set forth in subsections (A) through ~~(G)~~ (D) for preparation of, and challenges to, ballot titles and explanatory statements ~~for initiative measures also apply to referendum measures. However, the completion of such procedures are not a prerequisite to the circulation of petitions for referendum measures under § 5.1032.~~ Ballot titles need not be stated on petitions circulated to propose referendum measures.

Section 13. MCC § 5.103 is renumbered and amended as follows:

§ 5.1032 PETITION AND CIRCULATION REQUIREMENTS.

(A) After the requirements of § 5.1040(C) are met for referendum petitions, and after the requirements of § 5.1021(F) are met for initiative petitions, the chief petitioners may circulate a petition for the measure among the electors. The petition (cover sheet and signature sheet) must 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 must contain the title, ordinance number or code section numbers of the county legislation proposed by referral and the date it was adopted by the Board.

(D) No signature sheet may be circulated by more than one person. Each signature sheet must 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.

Section 14. MCC § 5.104 is renumbered as follows:

§ 5.1043 FILING AND PERCENTAGE REQUIREMENTS; VERIFICATION.

Section 15. MCC § 5.105 is renumbered and amended as follows:

§ 5.1054 MEASURES REFERRED BY BOARD.

(A) The Board may directly refer to the electors any county legislation adopted by it and any proposed property tax 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) The county attorney will prepare a ballot title and explanatory statement that conforms to the requirements of state law. The Board will certify ~~and file~~ the ballot title and explanatory statement, and file them with the director.

(C) The director 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, notice that any ~~including notice that an~~ elector may file a petition for review of the ballot title or explanatory statement, the deadline for filing the petition and notifying the director, and information on how to obtain a copy of the ballot title, not later than the date set in subsection (D).

(D) Any elector may petition the circuit court to challenge the ballot title or explanatory statement certified by the Board. Such petition must be filed with the circuit court within seven (7) business days of the Board's filing of the ballot title with the director. Any person filing a petition of review with the circuit court must file submit a copy of the ~~challenge with~~ petition to the director not later than the end of the business day ~~next~~ following the date the petition is filed with the circuit court. This requirement does not invalidate a petition that is timely filed with the circuit court.

(E) ~~A measure will be considered filed under this section as of the date the Board delivers its certified ballot title with the director.~~ If no petition is timely filed under section (D), the Board may certify the ballot title and explanatory statement as specified by state law.

Section 16. MCC § 5.106 is renumbered and amended as follows:

§ 5.1065 ADOPTION OR ELECTION.

(A) Upon receiving the director's certification that a petition has been filed with sufficient qualified signatures to require the proposed county legislation to be submitted to the electors under § 5.1043(F), the Board may either by ordinance adopt the proposed legislation or call an election for submission of the legislation to the electors. The Board may also call an election to submit county legislation to the electors upon referral under § 5.1054.

(B) The Board must call the election on the next election date available under state law that is not sooner than the 90th day after the date of the director's certificate of sufficient signatures. For a Board referral, the election on the referendum of county legislation must be held on the next election date available under state law.

Section 17. MCC § 5.107 is renumbered as follows:

§ 5.1076 ELECTION NOTICE AND PROCEDURE.

Section 18. MCC § 5.108 is renumbered as follows:

§ 5.1087 STATE LAW APPLIES.

FIRST READING: _____ *(type in meeting date)*

SECOND READING AND ADOPTION: _____ *(type in meeting date)*

**BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

Deborah Kafoury, Chair

REVIEWED:

**JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON**

By _____
Jacqueline A. Weber, Deputy County Attorney

SUBMITTED BY: