

ORDINANCE NO. 4748

**An Ordinance Amending the Beaverton Election Code,
Beaverton Code Chapter 2.06**

Whereas, the initiative and referendum process is a method of direct democracy that allows people to propose or amend local laws and charters or to adopt or reject an ordinance or other legislative enactment passed by a local governing body; and

Whereas, Oregon law at ORS 250.265 to 250.346 sets out the election procedures cities are to follow for local initiative and referendum elections, although cities may modify these procedures under authority of Article IV, section 1(5) of the Oregon Constitution; and

Whereas, on October 2, 2018, the Council held a work session to review materials and provide input about possible modifications to the initiative and referendum process in the City of Beaverton ("City") and other election-related matters; and

Whereas, on November 13, 2018, the Council held a public hearing to receive comment on a proposed ordinance to amend the Beaverton Election Code.

Now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Beaverton Code Chapter 2.06 is hereby repealed and in lieu thereof is replaced with the following:

**Chapter 2.06
ELECTIONS**

GENERAL PROVISIONS

2.06.305 Short Title.

BC 2.06.305 to 2.06.470 shall be known and may be cited as the "Beaverton Election Code" and may be referred to herein as "this chapter."

2.06.310 Definitions.

As used in this chapter:

A. "City elector" means an individual who is qualified to vote under section 2, Article II, of the Oregon Constitution, registered to vote, and a resident of the City.

B. "City elections officer" means the Beaverton city recorder.

C. "City measure" includes any of the following submitted to city electors for their approval or rejection at an election:

1. A City charter, or any proposed amendment or repeal of a City charter;
2. A City ordinance, or any proposed amendment or repeal of a City ordinance;
and
3. A proposition or question, including an advisory proposition or question.

2.06.315 State Law to Control in the Absence of Local Provision; Exception.

A. City elections must conform to state law, except as the Beaverton Charter and City ordinances provide otherwise. The provisions of the City Charter and City ordinances relating to elections prevail over any conflicting state law relating to elections.

B. Notwithstanding subsection A of this section, if the City authorizes, by resolution or nonemergency ordinance, the issuance of revenue bonds for a public purpose pursuant to Oregon law, including ORS Chapter 287A, the terms and provisions of state law relating to how city electors may seek to refer the question of whether to issue the revenue bonds to a vote shall control over any conflicting term or provision of the Beaverton Charter or a City ordinance.

2.06.320 Documents and Forms.

If a document prescribed by the city attorney is required or mentioned in this chapter, and the appropriate document is not available from the city attorney, or this chapter requires a form without specifying the form to be used, the appropriate document or form approved by the Oregon Secretary of State may be used.

NOMINATIONS

2.06.325 Purpose.

All elections held in the City for the election of elective officers shall be conducted in accordance with applicable law, including the Beaverton Charter and the Beaverton Election Code.

2.06.330 Nomination Petition.

Each candidate for an elective City office shall file a nomination petition for the office sought. The petition shall be in a form prescribed by the city attorney and may be obtained in the office of the city elections officer.

2.06.335 Requisite Number and Verification of Signatures.

A nomination petition shall be signed by not less than ten and not more than 20 city electors, and such signatures shall be verified by affidavit of a city elector. The affidavit shall be in a form prescribed by the city attorney and may be obtained from the office of the city elections officer.

INITIATIVE AND REFERENDUM

2.06.400 Filing Signatures.

A. A petition to refer a city measure shall be filed with the city elections officer for signature verification within 30 days after the City legislation sought to be referred is adopted. However, City legislation is not subject to referendum on or after its effective date.

B. A petition to initiate a city measure shall be filed with the city elections officer for signature verification within 180 days after the city elections officer approves the initiative petition for circulation.

2.06.405 Certification of City Measure.

A. If an initiative petition contains the required number of verified signatures, the city elections officer shall file the initiated measure with the Council within 15 days after

the petition has qualified to the ballot. The initiated measure shall be deemed filed with the Council on the date the Council first reviews the initiated measure as an agenda item at a public meeting.

B. The Council may adopt or reject the measure no later than 45 days after the initiated measure is first reviewed by the Council as an agenda item at a public meeting. If the Council takes no action, the Council shall be deemed to have rejected the measure. If either the measure is not adopted, or the measure must be submitted to city electors under the Beaverton Charter or state law, then the measure shall be submitted to city electors on the next available election date pursuant to state law held not sooner than 120th day after the measure was filed with the Council.

C. The Council may refer a competing measure to city electors at the same election an initiated measure is submitted to city electors. If the Council refers a competing measure to city electors, the Council shall prepare the measure not later than the 60th day after the initiated measure is filed. The mayor shall not have the power to veto an initiated measure or a competing measure.

D. If a referendum petition contains the required number of verified signatures, the referred measure shall be submitted to city electors on the next available election date pursuant to state law held not sooner than the 120th day after the referendum petition was filed with the city elections officer.

COUNCIL REFERRALS

2.06.410 Referring a Measure Proposed by Council.

A. The Council may adopt a resolution to refer a city measure to city electors. The resolution shall state the subject of the measure, call for an election on the measure, and state the date the election is to be held. City measures referred by the Council shall be submitted to the voters at such date as may be determined and declared by the Council. The resolution adopted by the Council to refer a city measure to city electors may include a ballot title for the measure.

B. The resolution shall be deemed filed with the city elections officer on the date the Council adopts the resolution prepared under subsection A of this section.

C. If a ballot title is prepared under subsection A of this section, the ballot title shall be deemed filed with the city election officer on the date the Council adopts the resolution. If the ballot title is not prepared under subsection A of this section, then when the measure is filed with the city elections officer, the officer shall send a copy of the resolution to the city attorney within the next two business days. The city attorney shall provide a ballot title for the measure and send a copy of the ballot title to the Council and the city elections officer no later than the fifth business day after receiving the copy from the city elections officer.

D. The Council shall submit an impartial, simple, and understandable statement explaining the Council-referred city measure and its effect no later than the date specified by the Oregon Secretary of State. The city attorney shall prepare the explanatory statement of the measure and submit it to the Council to adopt by resolution. At a public meeting, the Council may discuss and revise the explanatory statement prepared by the city attorney. The Council shall be deemed to have filed the explanatory statement with the city elections officer on the date the Council adopts a resolution containing the explanatory statement.

VOTERS' PAMPHLET

2.06.415 Voters' Pamphlet Content.

A. The city elections officer shall cause a voters' pamphlet to be prepared and printed for all City candidacies and measures submitted to the voters of the City at a primary or general biennial election. If the Council causes a city measure to be submitted to the voters at an election other than a primary or general biennial election, Council shall provide a voters' pamphlet through a resolution of the Council that sets forth its contents and the manner and means for its distribution consistent with this chapter.

B. The required voters' pamphlet shall include, at a minimum:

1. For a Measure. The full text, ballot number, ballot title, explanatory statement and any arguments filed relating to each city measure submitted to the voters.
2. For a Candidate. The name of the candidate, office to which candidate seeks election and any statement of the reasons why the candidate should be nominated or elected.

C. Measures referred by the council will be designated on the ballot: "Referred to the Voters by the Council."

D. Measures proposed by referendum petition will be designated on the ballot: "Referred by Referendum Petition."

E. Measures proposed by initiative petition will be designated on the ballot: "Proposed by Initiative Petition."

2.06.420 Purchase of Space.

Any individual candidate, person, or group opposing or supporting a measure may purchase not less than one half page and not more than one full page for their submitted material. The cost of the space shall be set by Council resolution.

2.06.425 Submission of Material; Deadline.

All material to be included in the City's voters' pamphlet shall be submitted to the city elections officer by the times specified for the voters' pamphlet for the equivalent state election. If there is no equivalent state election, all materials to be included in the City's voters' pamphlet shall be submitted to the city elections officer not later than 5 p.m. on the day that is the same number of days prior to the election that would apply if the election were held in conjunction with a statewide primary election.

2.06.430 Argument Authorship; Disclaimer

A. The city elections officer shall include in the City's voters' pamphlet on the page of a printed argument on a city measure: the name of the person or organization that submitted the argument; whether the argument supports or opposes the city measure; and a disclaimer in substantially the following form:

The printing of this argument does not constitute an endorsement by the City of Beaverton and the city does not warrant the accuracy or truth of any statement made in the argument.

B. The city elections officer shall include in the City's voters' pamphlet on the page of a printed candidate statement: the name of the person or organization that submitted the statement and a disclaimer in substantially the following form:

The above information has not been verified for accuracy by the city.

2.06.435 Distribution of Voters' Pamphlet.

The city elections officer, no later than the 30th day before the election, shall cause a copy of the City's voters' pamphlet to be mailed to each household in the City in which at least one registered voter resides and shall cause additional copies to be made available at city hall and at least one US Postal Service office in Beaverton. The most recent voter registration records available from the Washington County Elections Office shall be used to determine the households to which the City will mail voters' pamphlets.

2.06.440 Voters' Pamphlet Submission Requirements.

To accept a statement for publication in the City voters' pamphlet, whether submitted by the candidate or on behalf of a candidate:

- A. The candidate shall sign an affidavit that attests to the truthfulness of the voters' pamphlet submission statement.
- B. The signed statement in subsection A of this section shall contain a provision that the candidate agrees to provide supporting information if requested by the City and shall release and authorize third parties to participate in an investigation under this chapter.

2.06.445 Misstatement of Fact; Civil and Criminal Cause of Action.

A candidate who makes a material misstatement of fact in a City voters' pamphlet is subject to civil and criminal causes of action as found in ORS 260.532 and 260.715.

2.06.450 Misstatement of Fact; Council May Nullify Election.

If the circuit court enters a judgment finding that a candidate has made a material misstatement of fact published in the City's voters' pamphlet, the Council may nullify the election or nomination of that person after giving the person notice and an opportunity to be heard on the issue at a public hearing. The Council is the final judge of the election and qualifications of the mayor and its own members.

ELECTION RESULTS

2.06.455 Certification of Election Returns.

A. In all elections held in conjunction with state and county elections the state law governing the filing and canvassing of returns shall apply. The results of each election shall be entered in the record of the proceedings of the council by and through the adoption of a council resolution. The resolution shall state the number of votes cast for each person and for and against each measure, the name of each person elected to office, the office to which the person has been elected, and each measure enacted or approved. In the event of a tie vote for candidates for an elective office, the election of the successful candidate shall be determined by a public drawing of lots.

B. The city elections officer shall prepare the resolution stating the result of an election. Council adoption of the resolution shall be considered at a duly noticed public meeting of the Council.

C. Immediately after adoption of the resolution stating the results of an election for an office, the city elections officer shall issue a certificate of election to each person elected, to be delivered to the elected person within a reasonable time thereafter.

2.06.460 Effective Date of Measure.

A. City legislation approved by a majority of city electors who voted on the city measure takes effect 30 days after the city elections officer certifies that a majority of city electors who voted on the city measure approved it, or at a later date if specified in the measure.

B. A proposition or question approved by a majority of city electors who voted on the city measure takes effect when the city elections officer certifies that the measure has passed, or at a later date if specified in the measure.

2.06.465 Effective Date of City Ordinances Subject to Referendum.

An ordinance for which a prospective referendum petition has been submitted to the city elections officer does not take effect during the period of signature collection and signature verification. If petitioners collect the number of city elector signatures required under the Beaverton Election Code, the ordinance shall take effect only if a majority of the city electors who voted on the referral measure supported the ordinance. In that instance, the ordinance then takes effect when the city elections officer certifies that the measure has passed, or at a later date if specified in the ordinance. If a majority of the city electors who voted on the referral measure did not support the ordinance, the ordinance shall not take effect.

2.06.470 Conflicting Measures.

If, at the same election, city electors approve two or more city measures on the same subject matter, or where two or more measures contain conflicting provisions, the city measure receiving the greatest number of affirmative votes is the law adopted.

Section 2. The amendment to the Beaverton Election Code set forth in Section 1 of this ordinance takes effect 30 days after the ordinance's adoption by the council and approval by the mayor. Any petition to refer or initiate a city measure initially filed with the city elections official before the adoption date of this ordinance shall be governed by the Beaverton Election Code in effect when a legally sufficient prospective petition for a city measure was filed with the city elections official.

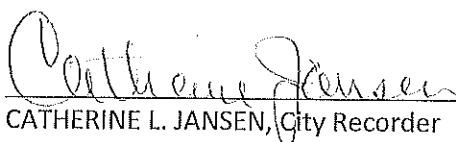
Section 3. The sections and subsections of this ordinance and Beaverton Code Chapter 2.06 are severable. If any part of this ordinance is held unconstitutional or otherwise invalid, the remaining parts shall remain in force unless: the remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional or invalid part; or the remaining parts, standing alone, are incomplete and incapable of being executed according to the legislative intent.

First reading this 13th day of November, 20 18.

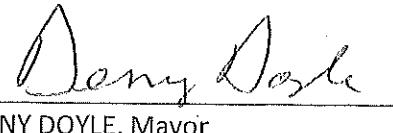
Second reading and passage by this Council this 8th day of January, 20 19.

Approved by the Mayor this 9th day of January, 20 19.

ATTEST:


CATHERINE L. JANSEN, City Recorder

APPROVED:


DENNY DOYLE, Mayor