

**Title 1**

**GENERAL PROVISIONS**

**Chapters:**

- 1.01 Code Adoption**
- 1.10 Initiative and Referendum**
- 1.15 General Penalty**



**Chapter 1.01****CODE ADOPTION**

## Sections:

- 1.01.010 Adoption, amendment and repeal.
- 1.01.020 Reservation of prosecutions.
- 1.01.030 Severability.

unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The city declares that it would have enacted this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional. [Ord. 742 § 1, 2006.]

**1.01.010 Adoption, amendment and repeal.**

A. There is hereby adopted the Philomath Municipal Code which consists of the ordinances of the city that have ongoing effect and which have not expired according to their own terms.

B. This code may be cited as the Philomath Municipal Code.

C. This code may be amended by reference to code section without the necessity of referring to the underlying ordinance.

D. New ordinances may be added to the code, and if an ordinance is enacted with a numbering system that is inconsistent with the code numbering system, the city recorder is authorized to assign an appropriate code number and to codify the ordinance accordingly.

E. The repeal of any code section does not revive the original text of the code section, but rather, repeal of an existing section repeals the underlying ordinance section and all of its amendments. [Ord. 742 § 1, 2006.]

**1.01.020 Reservation of prosecutions.**

The adoption of this code shall not affect any prosecution for violations of ordinances, which violations were committed prior to the effective date of the adoption of the municipal code, nor shall the adoption of the municipal code be construed as a waiver of any license, fee, or penalty due and owing at the effective date of the code adoption, nor shall adoption affect the validity of any bond or cash deposited with the city pursuant to the terms of any ordinance, upon its codification; but rather, all rights and obligations pertaining under ordinances in effect prior to codification shall remain in full force and effect. [Ord. 742 § 1, 2006.]

**1.01.030 Severability.**

If any section, subsection, clause or phrase of this code is for any reason held to be invalid or

## Chapter 1.10

### INITIATIVE AND REFERENDUM

#### Sections:

- 1.10.010 Elections procedures generally.
- 1.10.020 Prospective petition.
- 1.10.030 Ballot title – Appeal.
- 1.10.040 Petition and circulation requirements.
- 1.10.050 Filing and percentage requirements – Verification.
- 1.10.060 Measure referred by council.
- 1.10.070 Withdrawal, adoption or election.
- 1.10.080 Election notice and results.

#### **1.10.010 Elections procedures generally.**

The elections laws of the state of Oregon applicable to municipal elections, as set forth in the provisions of Chapters 221 and 246 through 260 ORS, as now constituted, except as modified by this chapter, are hereby adopted as the elections code for the city of Philomath. In the event that any portion of this chapter is found invalid for any reason by a court and there exists a corresponding procedure or requirement in the state law or the regulations pursuant thereto adopted by the Secretary of State, the corresponding state elections procedure shall be applied to determine the validity of any matter in question. Any elections matter not specifically addressed by this code shall be governed by state law. [Ord. 750 § 1, 2008.]

#### **1.10.020 Prospective petition.**

A. Before circulating a petition proposing an initiative or referendum for city legislation, the chief petitioners must file a prospective petition with the recorder. The recorder will provide the form showing:

1. The signatures, printed names and mailing addresses of at least two and not more than three chief petitioners, all of whom must be city electors;
2. For initiative petitions, the text of the city legislation proposed for adoption, and, where applicable, the title, ordinance number, and charter or code section numbers proposed for amendment, revision or repeal;
3. For referendum petitions, the text of the city legislation proposed for referral, and, where applicable, the title, ordinance number or code sec-

tion numbers of the city legislation proposed for referral; and

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

B. The recorder must date and time stamp any prospective petition filed.

C. After the recorder determines that the prospective petition complies with this section and state law, the recorder will certify to one of the chief petitioners that petitions may be circulated among city electors in accordance with PMC 1.10.040. [Ord. 750 § 2, 2008.]

#### **1.10.030 Ballot title – Appeal.**

A. Prior to the end of the fifth business day after a prospective initiative petition is filed and meets all legal requirements, the recorder will review the text of the proposed initiative to determine if it complies with the single subject requirement and if it proposes city legislation.

B. If the proposed text does not meet the requirements of subsection (A) of this section, the recorder will notify a chief petitioner by certified mail, return receipt requested, that the prospective petition does not meet the single subject or city legislation requirement.

C. Any city elector dissatisfied with the recorder's determination may file a petition for review in circuit court. The petition for review must be filed not later than the seventh business day after the written determination by the recorder.

D. If the proposed initiative meets the requirements of subsection (A) of this section or a referendum petition is certified for circulation, the recorder will send two copies of the prospective petition to the city attorney. The city attorney has five business days after receipt 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. The city attorney or the city manager will prepare an explanatory statement for the voter's pamphlet that conforms to the requirements of state law.

1. The explanatory statement must consist of an impartial, simple and understandable statement of not more than 500 words explaining the measure and its effect.

2. After preparing the ballot title and explanatory statement, the city attorney will return one copy of the prospective petition, ballot title and

explanatory statement to the recorder and one copy to one of the chief petitioners.

E. After receiving a ballot title from the city attorney, the recorder must publish in a newspaper of general circulation in the city a notice of receipt of the ballot title. The notice must state that a city elector may file a petition for review of the ballot title not later than the date referred to in subsection (F) of this section.

F. After receiving the prospective petition ballot title from the city attorney, the recorder must write the date of receipt on it. Within seven business days after that date, any city elector may petition in circuit court to challenge the ballot title prepared by the city attorney. After the seven-day period, or following the final adjudication of any legal review, the recorder must certify the ballot title as prepared by the city attorney or as prescribed by the court to a chief petitioner.

G. Any city elector filing a petition of review with the circuit court must file a copy of the challenge with the recorder not later than the end of the next business day 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. The procedures in subsections (A) through (G) of this section also apply to referendum measures. However, the completion of these procedures is not a prerequisite to the circulation of petitions for referendum measures under PMC 1.10.040. Ballot titles need not be stated on petitions circulated to propose referendum measures. [Ord. 750 § 3, 2008.]

#### **1.10.040 Petition and circulation requirements.**

A. After the requirements of PMC 1.10.020(C) are met for referendum petitions and after the requirements of PMC 1.10.030(F) are met for initiative petitions, the chief petitioners may circulate a petition for the measure among city 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 recorder.

C. Each signature sheet of a referendum petition must contain the title, ordinance number or code section numbers of the city legislation pro-

posed by referral and the date it was adopted by the council.

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 elector of the city, and that the information placed on the sheet by each elector is correct. [Ord. 750 § 4, 2008.]

#### **1.10.050 Filing and percentage requirements – Verification.**

A. The recorder will accept for signature verification only petitions that comply with the requirements of this section and other applicable laws.

B. No petition may 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 subsection (G), (H) or (I) of this section.

C. No initiative petition may be accepted for signature verification more than six months after the date of the recorder's certification under PMC 1.10.030(F).

D. Any petition to refer legislation adopted by the council must be submitted for signature verification not more than 30 days after the council's adoption of the legislation.

E. An initiative or referendum petition may not be accepted for signature verification if it contains less than 100 percent of the required number of signatures.

F. Upon the acceptance of a petition, the Benton County elections division must verify the signatures. The verification may be performed by random sampling in a manner approved by the Secretary of State. Within 30 days after the recorder's acceptance of a petition, the recorder must certify to the council whether the petition contains a sufficient number of qualified signatures to require the submission of the proposed measure to city electors. The recorder must state in the certificate the number of qualified signatures prescribed by subsection (G), (H) or (I) of this section to require the proposed city legislation to be submitted to city electors. The petition is considered filed as of the date of the recorder's certification.

G. An initiative measure proposing the amendment, revision or repeal of the city charter will be submitted to the electors if the number of qualified signatures on the petition equals or exceeds 15 percent of the total number of registered voters in the city on January 1st of the calendar year the petition is filed.

H. An initiative measure proposing the adoption, amendment or repeal of any other city legislation will be submitted to the electors if the number of qualified signatures on the petition equals or exceeds 15 percent of the total number of registered voters in the city on January 1st of the calendar year the petition is filed.

I. A referendum measure will be submitted to the electors if the number of qualified signatures on the petition equals or exceeds 10 percent of the total number of registered voters in the city on January 1st of the calendar year the petition is filed. [Ord. 750 § 5, 2008.]

#### **1.10.060 Measure referred by council.**

A. The council may directly refer to the electors any ordinance or any proposed ordinance, property tax, bond or other proposition or question. It may also directly refer to the electors any proposed amendment, revision or repeal of the city charter.

B. The city attorney will prepare a ballot title and explanatory statement that conforms to the requirements of state law. The council will certify and file the ballot title and explanatory statement with the recorder. The explanatory statement will be prepared by the city attorney or the city manager.

C. The recorder will publish in a newspaper of general circulation in the city a notice of receipt of the ballot title, including notice that an elector may file a petition for review of the ballot title not later than the date set in subsection (D) of this section.

D. Any city elector may petition the circuit court to challenge the ballot title certified by the council. Such petition must be filed with the circuit court within seven business days of council 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 recorder 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 council delivers its certified ballot title to the recorder. [Ord. 750 § 6, 2008.]

#### **1.10.070 Withdrawal, adoption or election.**

A. The chief petitioners may withdraw a verified petition at any time before council action to adopt the proposed legislation or submit it to the electors. Any withdrawal must be either by written or oral declaration made at a council meeting and entered in the minutes of that meeting.

B. Unless a petition is withdrawn, after receiving a certification from the recorder that a petition has sufficient signatures to require the proposed city legislation to be submitted to the electors under PMC 1.10.050(E), the council may either adopt the proposed legislation by ordinance or call an election to submit the legislation to the electors. The council may also call an election to submit matters to the electors upon referral under PMC 1.10.060.

C. The council must call the election on the next election date available under state law that is not sooner than the ninetieth day after the date of the recorder's certificate of sufficient signatures, and must call the election no later than the next regular election. For a council referral, the election on the measure may be held on the next election date available under state law. [Ord. 750 § 7, 2008.]

#### **1.10.080 Election notice and results.**

A. Notice of elections on measures submitted to city electors on regular or special election dates must be given in accordance with state law.

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

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

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

E. The recorder must certify the election results to the council at the first council meeting after the results are certified by the county clerk.

F. A measure adopted by the electors takes effect 30 days after the election, unless the measure expressly provides a different effective date. [Ord. 750 § 8, 2008.]

## **Chapter 1.15**

### **GENERAL PENALTY**

Sections:

1.15.010 Criminal penalties.

#### **1.15.010 Criminal penalties.**

In addition to penalties provided by state law, any violation of this code not otherwise specified shall be a Class A infraction, punishable by a fine of up to \$500.00. A violation of this code shall be considered a separate offense for each day the violation continues.

In the event of mislabeled or obsolete classifications relating to code violations, the provisions of this chapter shall apply. [Ord. 773 § 1, 2011.]

