

## ORDINANCE NO. 901

AN ORDINANCE OF THE CITY OF MADRAS PRESCRIBING INITIATIVE AND REFERENDUM PROCEDURES; AMENDING, RESTATING, SUPERSEDING, AND REPLACING ORDINANCE NO. 491, WHICH ORDINANCE ESTABLISHED CERTAIN PROCEDURES FOR LOCAL INITIATIVES AND REFERENDUMS IN CITY; AND PROVIDING A PENALTY.

**WHEREAS**, on September 24, 1991, the City of Madras ("City") adopted Ordinance No. 491, pursuant to which City established procedures for local initiatives and referendums; and

**WHEREAS**, initiative and referendum procedures under Oregon law have changed since Ordinance No. 491 was adopted and the Madras City Council desires to update City's initiative referendum procedures; and

**WHEREAS**, the Madras City Council has determined that Ordinance 491 is outdated and hereby desires to amend, restate, and replace Ordinance 491 in its entirety.

**NOW, THEREFORE**, the City of Madras ordains as follows:

1. Findings. The above-stated findings are hereby adopted.
2. Short Title. This Ordinance No. 901 will be known as the "City of Madras Initiative and Referendum Ordinance" and will be cited and referred to herein as this "Ordinance."
3. Definitions. For purposes of this Ordinance, the following terms and phrases have the meanings assigned to them below:

"Ballot title" means the caption, question, and summary of a city measure. Each ballot title for a city measure will comply with all applicable federal, state, and local laws, regulations, and/or ordinances including, without limitation, ORS 250.035.

"Chief petitioner(s)" means the elector(s) responsible for the preparation and organization a petition. Not more than three electors may be designated as chief petitioners for any one petition.

"Circuit court" means the Jefferson County Circuit Court.

"Circulator" means a person who gathers signatures for a petition in compliance with all applicable federal, state, and local laws, regulations, and/or ordinances, including, without limitation, rules and regulations adopted by the Oregon Secretary of State, Elections Division.

“City” means the City of Madras, an Oregon municipal corporation.

“City elections officer” means City’s city recorder or the city recorder’s designee.

“Conflicting measures” refers to when any part of one measure cannot operate concurrently with a provision of another measure or when one or both measures expressly provide that they are intended to be the exclusive enactment for that area of legislation.

“Council” means the Madras City Council.

“County elections official” means the Jefferson County Clerk or the Jefferson County Clerk’s designee.

“Election” means a general election, primary election, special election, or emergency election.

“Elector” means a resident of City qualified to vote under Article II, section 2 of the Oregon Constitution.

“Emergency election” means an election held in accordance with the procedures under ORS 221.230(2) to 221.230(4). To call an emergency election, council must find by resolution that an emergency exists that requires an election sooner than the next available election date under ORS 221.230(1) in order to avoid extraordinary hardship to the community.

“General election” means an election held on the first Tuesday after the first Monday in November of each even-numbered year, or as otherwise defined by the Oregon Legislative Assembly.

“Initiative petition” means the information required under this Ordinance to initiate a measure for which a prospective petition has been filed but is not yet a measure.

“Legislation” means a law (a) of permanent or general character that creates policy as opposed to executing policy already in existence, and (b) that is within the meaning of legislation as that term is used in Article IV, section 1(5) of the Oregon Constitution.

“Measure” means any municipal legislation, City ordinance, charter revision, charter amendment, or a proposition, question, or advisory measure placed on (or to be placed on) the ballot by council referral, initiative petition, or referendum petition.

“Person” means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency, political subdivision, and/or any other entity.

“Petition” refers to an initiative petition or a referendum petition.

“Primary election” means an election held on the third Tuesday in May of each even-numbered year, or as otherwise defined by the Oregon Legislative Assembly.

“Prospective petition” means the information, except the signatures and other identification of the petition signers, required to be contained in a petition.

“Referendum petition” means the information required under this Ordinance to refer council legislation to the electors and for which a prospective petition has been filed but is not yet a measure.

“Special election” means an election other than a primary election or general election, held on one of the dates described in ORS 221.230(1).

“Write” means to write, type, or print.

4. Complete Procedure; State Law. The procedures for City initiatives, referendums, and council referrals are as set forth in this Ordinance; provided, however, the provisions of ORS 250.005 to 250.038 govern to the extent there is a conflict with this Ordinance. Insofar as not governed by this Ordinance and/or by any other law of City, initiative, referendum, and council referral powers will be exercised in accordance with applicable state law.
5. Submission During Business Hours. Each petition and prospective petition will be submitted (a) to the city elections officer in person, (b) at the office of the city elections officer, and (c) during regular City business hours.
6. General Overview.
  - 6.1 Initiative Petition. Any elector may propose a measure to be submitted to the voters by filing with the city elections officer an initiative petition that meets the requirements of this Ordinance.
  - 6.2 Referendum Petition. Any elector may refer council legislation to be submitted to the electors by filing with the city elections officer a referendum petition in accordance with the requirements of this Ordinance.

- 6.3 Council Referral. Council may refer a measure to the electors by adopting a resolution at the session at which it enacts the measure.
7. Number of Signatures. The minimum number of signatures required for an initiative petition is fifteen percent (15%) of the registered voters in City at the time the prospective petition is filed. The minimum number of signatures required for a referendum petition is ten percent (10%) of the registered voters in City at the time the prospective petition is filed.
8. Prospective Petition; Duties.
- 8.1 Form. Each prospective petition will be in the form prescribed by the Oregon Secretary of State.
- 8.2 Prospective Petition Review. A chief petitioner will file a prospective petition with the city elections officer prior to circulating the prospective petition for signatures. Upon receipt of a prospective petition, the city elections officer will date and time stamp the prospective petition and review the prospective petition to ensure it includes the following information: (a) a full and correct copy of the proposed measure; (b) a signed statement on the face of the petition stating the name(s) and address(es) of the chief petitioner(s); and (c) a statement indicating whether circulators will be paid money and/or other valuable consideration for obtaining signatures. If the prospective petition includes the information required under this Section 8.2, the city elections officer will assign the prospective petition an identification number.
- 8.3 Single Subject Determination. No later than the five (5) business days after receiving a prospective petition, the city elections officer will determine whether the text of the proposed measure meets the requirements of Section 1(2)(D), Article IV of the Oregon Constitution. The city elections officer may request the city attorney determine whether the petition meets the requirements under this section. Upon a determination that the prospective petition meets the requirements of this Section 8.3, the city elections officer will notify the chief petitioner(s) in writing of such determination. Within six (6) days of the initial receipt of the prospective petition, the city elections officer will forward two (2) copies of the prospective petition to the city attorney for preparation of the ballot title.
- 8.4 Incomplete Prospective Petition. If the prospective petition does not comply with Section 8.2 and/or Section 8.3, the city elections officer will return the prospective

petition by certified mail, return receipt requested, to the chief petitioner submitting it and advise the chief petitioner of the defects. Any elector dissatisfied with a determination under Section 8.3 may file a petition with the circuit court in accordance with state law.

9. Ballot Title; Publication; Appeal.

9.1 Initiative and Referendum Petitions. Within five (5) business days after receiving a prospective petition from the city elections officer, the city attorney will prepare the ballot title and deliver it to the city elections officer.

9.2 Council Referral. When council refers of a measure to the electors, the city elections officer will forward two (2) copies of the measure to the city attorney. Within five (5) business days following the council's decision to refer the legislation to the electors, the city attorney will prepare a ballot title and deliver it to the city elections officer.

9.3 Ballot Title. Subject to applicable state law, the ballot title of any measure will consist of the following:

9.3.1 Caption. A caption of not more than ten (10) words which reasonably identifies the subject matter of the petition;

9.3.2 Question. A question not exceeding twenty (20) words that plainly states the purpose of the measure and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

9.3.3 Summary. A concise and impartial statement, not exceeding one hundred seventy-five (175) words, which summarizes the measure and its major effect.

9.4 Publication; Appeal. Upon receiving a ballot title from the city attorney, the city elections officer will publish notice in the next available edition of a newspaper of general circulation in City, advising the electors of City of (a) receipt of the ballot title, and (b) that an elector dissatisfied with the ballot title may petition the circuit court for review of the ballot title not later than the seventh (7<sup>th</sup>) business day after the ballot title is filed with the city elections officer. Any elector dissatisfied with the ballot title may challenge the ballot title as provided by state law.

10. Petition Requirements; Approval to Circulate.

10.1 Timing. No petition may be circulated unless and until a prospective petition has been submitted to the city elections officer in accordance with this Ordinance.

The city elections officer will not approve a petition cover page and/or signature sheets for circulation until the ballot title is final and the challenge period under Section 9.4 (and any challenge) is complete.

- 10.2 Form of Petition. In addition to complying with Section 10.2.1 and Section 10.2.2, a proposed petition to be circulated must (a) be in the form prescribed by the Oregon Secretary of State and in accordance with this Ordinance, and (b) contain the name(s) and address(es) of the chief petitioner(s).

10.2.1 Cover Page. Each copy of a proposed petition to be circulated must consist of a cover page with the ballot title and the text of the proposed measure. The cover page will include any instructions required by the Oregon Secretary of State to be included on the cover page, including, without limitation, instructions concerning circulators obtaining signatures on the petition.

10.2.2 Signature Sheets. Signature sheets will be attached to the back of the cover page. Each signature sheet will include in the foot margin, the following: (a)(i) for an initiative petition, the caption of the ballot title, or (ii) for a referendum petition, the number and title, if any, of the measure to be referred and the date it was enacted by council; and (b) if one or more persons will be paid for obtaining signatures on the petition, a notice stating: "Some circulators for this petition are being paid."

- 10.3 City Elections Officer Review. The city elections officer will review the text of the measure, cover sheet, and signatures sheets and complete the following: (a) verify with the Oregon Elections Division that a petition committee has been established by the chief petitioner(s) and all applicable filings, including, without limitation, a "Statement of Organization," have been completed; (b) ensure the text of the measure is a correct and exact copy of the approved text of the prospective petition; and (c) ensure the cover page and signature sheets comply with this Section 10. The city elections officer will notify the chief petitioner(s), in writing, of any failure to comply with the requirements of this Section 10 and provide the deadline to submit the cover page and signature sheets for verification.

- 10.4 Approval to Circulate. Upon determining compliance with the requirements of Section 10.3, the city elections officer will provide the chief petitioner(s) notice in writing of (a) approval to circulate the petition, and (b) the minimum number of signatures required for the petition. Once a petition is approved to circulate, but before any signatures are collected, each chief petitioner must comply with all applicable federal, state, and local laws, regulations, and/or ordinances regarding circulator guidelines, including, without limitation, any rules prescribed by the Oregon Secretary of State.

- 10.5 Notice of Circulator Receiving Compensation. A chief petitioner will notify the city elections officer no later than ten (10) days after the chief petitioner first has knowledge or should have had knowledge that: (a) any person is being compensated for obtaining signatures, if the statement included with the prospective petition declared that no person would be compensated; and/or (b) no person is being compensated for obtaining signatures, if the statement included with the prospective petition declared that one or more such persons would be compensated.

11. Circulation of Petition.

- 11.1 Each circulator must carry at least one complete and correct copy of the text of the proposed measure and must allow any person to review the text upon request.
- 11.2 Not more than ten (10) signatures on each signature sheet of a petition will be counted. Each signature sheet will contain a certification, signed by the circulator, certifying the following: (a) the circulator witnessed the signing of the signature sheet by each individual whose signature appears on the signature sheet; and (b) the circulator believes that each individual who signed the signature sheet is a qualified elector. No individual signature sheet will be circulated by more than one person.
- 11.3 The date of the first signature on an initiative petition must be no later than ninety (90) days after the issuance of the ballot title on the measure. No signature upon an initiative petition will be counted unless the petition is offered for filing with the city elections officer within one-hundred (100) days of the date of the first signature. A referendum petition must be offered for filing with the city elections officer no later than thirty (30) days after passage of the council legislation sought to be referred.

12. Verification of Signatures.

- 12.1 Filing. Subject to the requirements under Section 11.3, a petition will be filed with the city elections officer for signature verification. A petition submitted for filing will be accepted by the city elections officer if it (a) complies with the requirements of this Ordinance, and (b) contains no less than the minimum number of signatures required under Section 7. The petition will contain only original signatures. After a petition is submitted under this Section 12.1, no elector may remove his or her signature from the petition.
- 12.2 Review. Within five (5) days after receipt of a petition submitted for verification under Section 12.1, the city elections officer will process signature sheets by confirming the following: (a) that the submitted cover and signature sheets are

the approved versions; (b) signature sheets are numbered sequentially; and (c) each circulator's certification complies with this Ordinance.

- 12.3 Verification. Within fifteen (15) days of submission of a petition for signature verification, the city elections officer will forward the petition to the county elections official to verify the number and genuineness of the signatures and voting qualifications of the petition signers. Verification will be by reference to the records in the Jefferson County Clerk's office. The city elections officer will request the county elections official provide, in writing, the results of signature verification and the number of signatures determined to be valid.
- 12.4 Certification. If a petition does not contain the required number of valid signatures and the filing deadline has not passed, the petition will be returned to the chief petitioner and the chief petitioner may submit additional signatures prior to the filing deadline. If the city elections officer determines a petition contains all information required under this Ordinance and no less than the minimum number of valid signatures required under Section 7, the city elections officer will certify and file the completed petition.

13. Presentation to Council.

- 13.1 Council Action. At the next regular meeting of the council after the city elections officer certifies a petition under Section 12.4, the city elections officer will present the petition to the council. Council may take any action described in Sections 13.1.1, 13.2.2, or 13.3.3.
- 13.1.1 Council may approve an initiative petition by adopting a non-emergency ordinance (a) not later than thirty (30) days after the petition has been certified by the city elections officer for council action, and (b) prior to the date the measure must be filed with the county for placement on the ballot. Approval of the ordinance under this Section 13.1.1 will void the initiative petition.
- 13.1.2 Council may repeal an ordinance, or any provision thereof, which is subject to a referendum petition. Council will act by non-emergency ordinance (a) not later than thirty (30) days after the measure has been certified by the city elections officer for council action, and (b) prior to the date the measure must be filed with the county elections official for placement on the ballot. Repeal of the referred ordinance, or any provision thereof, will void a referendum petition.
- 13.1.3 Council may reject a petition and/or take no action on a petition. If council rejects a petition and/or takes no action on a petition, the council will order the petition to be submitted to the voters.

- 13.2 Competing Measure. Within thirty (30) days after the date an initiative measure is presented to council, council may refer a competing measure to be submitted to the electors at the same election as the initiative measure.
- 13.3 Charter Amendments. Notwithstanding anything contained in this Ordinance to the contrary, all measures qualified for placement on the ballot that (a) propose to amend the Madras City Charter, and/or (b) are required to be submitted to City electors under the Madras City Charter and/or state law, will be submitted to the voters.
14. Submission to Electors. Subject to the time limits under applicable state law, the city elections officer will furnish to the county elections official, in the form prescribed by the Oregon Secretary of State, a certified copy of a ballot title of a measure qualified for placement on the ballot. The time for voting on a measure will be the first primary or general election held more than ninety (90) days after the date that the council orders the measure to be submitted to the voters under this Ordinance; provided, however council may submit a measure to the voters at a special or emergency election. Notwithstanding anything contained in this Ordinance to the contrary, City will comply with the requirements under Section 26 of the Madras City Charter for any election held on a date other than during a general election.
15. Designation on Ballot; Notice. The county elections official will assign the measure a measure number for the appropriate election. Unless directed otherwise by the council, the city elections officer will give notice, by publication, of all elections in accordance with the requirements of the Madras City Charter.
16. Election Returns; Proclamation by Mayor.
- 16.1 The votes on a measure will be counted, canvassed, and returned by the county elections official as provided by applicable law. Upon completion of the canvass of votes on a measure submitted pursuant to this Ordinance, the mayor will, at the next available city council meeting, issue a proclamation containing the following: (a) stating the vote on the measure; (b) declaring whether the vote shows a majority to be in favor of the measure and contains the requisite number of votes required by law; and (c) if the measure is approved by a majority of the voters, announcing the effective date of the legislation in accordance with Section 17 of this Ordinance. The proclamation will be filed with the measure in the office of the city recorder.
- 16.2 To the extent that compliance with Section 28 of the Madras City Charter is impractical and/or impossible due to requirements of state law and/or the duties, responsibilities, and/or practices of the county elections official, the procedures

described in Section 16.1 of this Ordinance will govern where such procedures conflict with Section 28 of the Madras City Charter.

17. Effective Date of Measure.

17.1 A measure which has been approved by a majority of the City electors who voted on the measure will take effect upon the mayor's proclamation under Section 16, or at such later date specified in the measure.

17.2 An ordinance, or any provision thereof, for which a prospective referendum petition has been submitted to the city elections officer will not take effect during the period of signature collection and signature verification. If the referendum petition qualifies for placement on the ballot, the ordinance, or any provision therefor, will not take effect unless and until the referendum measure is defeated by a majority of the City electors voting upon it.

18. Conflicting Measures. Of two conflicting measures approved by the electors at the same election, the measure receiving the greater number of affirmative votes will be deemed approved and the other measure will be deemed not approved.

19. Unlawful Acts.

19.1 No person other than an elector will knowingly sign a City initiative or referendum petition.

19.2 No person will sign a City initiative or referendum petition with a name not his or her own.

19.3 No person will sign his or her name to a City initiative or referendum petition with knowledge of previously signing the petition.

19.4 No person will circulate or submit to the city elections officer a City initiative or referendum petition which to his or her knowledge contains a signature signed in violation of this Ordinance.

19.5 No person will procure or attempt to procure a signature to a City initiative or referendum petition by fraud.

19.6 No person will make a statement concerning a City initiative or referendum petition that the person knows to be false.

19.7 No person will knowingly make a document under this Ordinance that contains a false statement.

- 19.8 No City officer will willfully violate a provision of this Ordinance.
20. Penalties. Violation of a provision of Section 19 is punishable by a fine not to exceed \$500.00 per violation. In addition, City may pursue any other remedy available at law, including seeking a court injunction, and such remedies will be cumulative. Each occurrence of a violation or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately. In addition to any other rights or remedies provided under this Ordinance, City may file a civil action to recover unpaid fees, fines, and costs, including, without limitation, City's reasonable attorney fees and other fees, costs, and expenses incurred by City to enforce this Ordinance.
21. Superseding and Replacing. This Ordinance amends, supersedes, and replaces Ordinance 491 in its entirety, and supersedes and repeals all ordinances, resolutions, and/or policies in conflict with this Ordinance.
22. Interpretation; Severability; Errors; Effective Date. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, rule, regulation, code, or ordinance includes the law, rule, regulation, code, or ordinance as now in force and which may hereafter be amended. The provisions of this Ordinance are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the council to cure editorial and/or clerical errors. This Ordinance will take effect thirty (30) days after its enactment.

**PASSED** by the Council and signed by the Mayor on June 13, 2017.