

ORDINANCE NO. NS-2374

AN ORDINANCE AMENDING BEND MUNICIPAL CODE SECTION 1.25.005, ALLOWING DECLARATIONS OF CANDIDACY FOR NOVEMBER 3, 2020 ELECTION

Findings:

- A. On March 11, 2020, the World Health Organization declared COVID-19 a pandemic.
- B. Coronavirus are a group of viruses that can cause respiratory disease, with the potential to cause serious illness or loss of life. Current evidence suggests that individuals who are elderly and/or have underlying health conditions are most at risk from COVID-19.
- C. On March 8, 2020, Governor Kate Brown declared a state of emergency due to the COVID-19 outbreak in Oregon (Executive Order No. 20-03), finding that COVID 19 has created a threat to public health and safety, and constitutes a statewide emergency.
- D. On March 23, 2020, the Governed issued the "Stay Home, Save Lives" Order (Executive Order No. 20-12), ordering Oregonians to stay at home and minimize non-essential travel, closing specified retail businesses, requiring maintenance of at least six feet of distance between persons other than members of the same household, adding restrictions for other public and private facilities, closing state government buildings, and including enforcement provisions. The purpose of the Stay Home, Save Lives Order is "to reduce person-to-person interaction with the goal of slowing transmission" of COVID-19.
- E. On March 16, 2020, the City Manager signed the Updated Order Declaring Local State of Emergency ("Order"), which was ratified by the City Council by unanimous vote at its City Council meeting on March 18, 2020. The Order was first extended to May 6, 2020 on April 9, 2020, which was ratified by the City Council on April 15, 2020. The Order was subsequently extended to May 20, 2020 on May 5, 2020, which was ratified by the City Council on May 6, 2020.
- F. On May 1, 2020, the Governor extended the statewide state of emergency for an additional 60 days, through July 6, 2020, unless extended or terminated earlier by the governor (Executive Order No. 20-24).
- G. On May 14, 2020, the Governor rescinded the Stay Home, Save Lives Order, and in its place established a phased, regionally-tailored framework for reopening the state (Executive Order 20-25). The reopening framework keeps in place a majority of the restrictions set forth in the Stay Home, Save Lives Order, including physical distancing requirements, but relaxes the restrictions on local gatherings and allows certain business sectors to reopen in counties that meet state public health criteria. Upon reopening, individuals, businesses, and other organizations must still comply with Oregon Health Authority guidance, including a requirement that Oregonians continue to practice physical distancing.

- H. On November 3, 2020, the City will hold its biennial election for City Councilor positions pursuant to Bend Municipal Code Section 1.25.005(C) and state law. The first day for potential candidates to file for candidacy is June 3, 2020.
- I. Under state law, cities are authorized to set by charter or code whether to allow candidates to file for candidacy either by nominating petition or by declaration. State law does not allow cities to design alternative filing methods other than nomination petitions or declarations.
- J. Bend Municipal Code Section 1.25.005(B) allows candidates to be nominated for City Councilor only by filing a nominating petition and not by declaration. The nominating petition must be approved by the City Recorder and contain the signatures of at least 150 electors of the city of Bend. The nominating petition and signature gathering procedures must comply with state law and rules established by the Oregon Secretary of State's Office.
- K. State law currently permits electronic signatures only for initiative, referendum, or recall petitions. Electronic signatures are not permitted for petitions for candidacy.
- L. Given these restrictions, the City desires to temporarily allow prospective candidates to file by declaration for the November 3, 2020 election as an alternative to collecting signatures on nominating petitions in order to facilitate physical distancing necessary to slow the spread of COVID-19 consistent with the Governor's reopening framework. Prospective candidates may still file for candidacy via nominating petition if they choose.
- M. Candidates choosing to file by declaration must also pay to the City a filing fee. The fee will be set by resolution in an amount that allows eligible individuals to have access to the ballot regardless of their financial situation.
- N. State law preempts the City's ability to design procedures by which eligible individuals may file for candidacy other than by nomination petition or declaration. The City desires to consider other filing options which would allow prospective candidates to demonstrate community engagement while still complying with the state's physical distancing orders and guidance.
- O. The City directs its lobbyist to explore advocacy at the state level that might allow municipalities more flexibility in setting local filing requirements and procedures.
- P. Allowing prospective candidates to file by declaration for the November 3, 2020 election as an alternative to collecting signatures will be a temporary alternative, available while physical distancing requirements are still in effect. The City recognizes the importance of requiring prospective candidates to demonstrate public support for their candidacy and to connect with voters. The City will revert back to the nominating petition requirement for future elections, unless COVID-19 continues to pose a threat to public health and safety, in which case the City will look to safer and more modern approaches for prospective Council candidates to demonstrate public support, community engagement, and commitment to the office other than gathering in-person signatures.

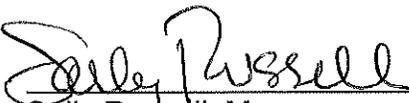
Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. Bend Municipal Code Section 1.25.005 is amended as shown on the attached Exhibit A.
- Section 2. Due to the risk of COVID-19 transmission in the connection with the signature-gathering process, as well as the need to provide candidates with the option to file by declaration and fee as near as possible to the opening of the filing period on June 3, 2020, this ordinance is critical to ensure public health and safety. The ordinance is therefore necessary on an emergency basis and will be effective immediately upon adoption on its second reading.
- Section 3. If any provision, section, phrase, or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.
- Section 4. The provisions of this ordinance shall be null, void, and of no further force and effect, and the Code amendment under this ordinance shall be repealed, on and after January 1, 2021.

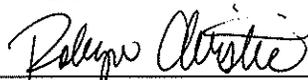
First Reading: May 20, 2020

Second reading and adoption by roll call vote: June 3, 2020

YES: Sally Russell, Mayor
Bruce Abernethy
Barb Campbell
Bill Moseley
Justin Livingston
Gena Goodman-Campbell
Chris Piper


Sally Russell, Mayor

ATTEST:


Robyn Christie, City Recorder

Approved as to form:

Mary A. Winters, City Attorney

Chapter 1.25
ELECTIONS

Sections:

- 1.25.005 City Elections.
1.25.005 City Elections.

A. Initiative and Referendum Measures. All elections related to initiative and referendum elections shall be in compliance with the rules established by the Secretary of State's office and shall comply with State law.

B. Nomination of Candidates for City Council. Candidates for City Councilor can only be nominated for that office by filing a nominating petition with the City Recorder and may not be nominated by filing a declaration of candidacy. The requirements of the nominating petition and the procedures for filing it shall be as provided by State law except that the nominating petition shall contain at least 150 signatures of electors of the City of Bend.

C. Declarations of Candidacy for City Council Allowed for November 3, 2020 Election. Notwithstanding any provision in Section 1.25.005(B) to the contrary, candidates for City Councilor may be nominated for that office on the November 3, 2020 election ballot either by filing the above-described nominating petition or by filing a declaration of candidacy, as provided by state law, and by paying to the City the applicable filing fee.

DC. Election Dates. All elections shall be held on the same biennial State general and special elections dates in accordance with State Election Law. The City Recorder is the City Election Officer and will file all necessary initiatives, referendum measures and candidate nominations with the County Clerk of Deschutes County. [Ord. NS-2159, 2011]