

ORDINANCE NO. 54-O-058

AN ORDINANCE PROVIDING FOR THE MANNER OF EXERCISING THE INITIATIVE AND REFERENDUM POWERS RESERVED TO THE LEGAL VOTERS OF THE CITY OF BROOKINGS, CURRY COUNTY, OREGON, BY SECTIONS 1 AND 1A OF ARTICLE IV OF THE CONSTITUTION OF OREGON; TO PROVIDE THE MANNER WHEREBY SAID LEGAL VOTERS MAY ENACT AND AMEND THEIR MUNICIPAL CHARTER UNDER THE POWERS RESERVED TO THEM BY SECTION 2 OF ARTICLE XI OF THE CONSTITUTION OF OREGON; AND DECLARING AN EMERGENCY. [Effective June 9,

**REPEALED BY ORDINANCE NO. 96-O-515,
EFFECTIVE JANUARY 12, 1996**

1954]

Sections:

Section 1.	Introductory Provisions - Definitions.
Section 2.	Chapter provides complete procedure.
Section 3.	Manner of proposing initiative measure.
Section 4.	Form of petition for initiative.
Section 5.	Presentation of initiative measure to council.
Section 6.	Submission of initiative measure to voters.
Section 7.	Manner of referring measure.
Section 8.	Form of petition for referendum.
Section 9.	Time for referring measure by petition.
Section 10.	Time for council to refer measure.
Section 11.	Submission of referendum measure to voters.
Section 12.	Procedure prior to circulation of petition.
Section 13.	Requisite number of signatures.
Section 14.	Attachment of measure to sheets for signatures.
Section 15.	Verification of signatures.
Section 16.	Certification of signatures.
Section 17.	Signatures to be counted.
Section 18.	Preparation of ballot title.
Section 19.	Requisite of ballot title.
Section 20.	Time to vote on measure.
Section 21.	Titles and numbers of measures on ballot.
Section 22.	Notice of election.
Section 23.	Notice at general election.
Section 24.	Furnishing information of measure to county.
Section 25.	Advertising measure.
Section 26.	Election returns.

Section 27.	Proclamation of mayor.
Section 28.	Effective date of measure.
Section 29.	Measures subject to referendum.
Section 30.	Conflicting measures.
Section 31.	Unlawful acts.
Section 32.	Penalty.
Section 33.	[Emergency clause.]

Section 1. Introductory provisions - definitions. As used in this chapter:

- A. The term "measure" means:
1. A legislative enactment by the council not necessary for the immediate preservation of the public peace, health, or safety;
 2. A part of such an enactment; or
 3. A proposed legislative enactment for the city.
- B. The term "voter" means a legal voter of the city.
- C. The term "general election" means a general November election.
- D. The term "special election" means any election not held on the date of the aforesaid "general election".
- E. The term "petition" means an initiative or referendum petition for ordering a measure to be submitted tot he voters.
- F. The term "refer" means to be subject to the referendum.
- G. The term "write" means to write, type, or print.

Section 2. Ordinance provides complete procedure. This ordinance provides a complete procedure for the voters to exercise their initiative and referendum powers.

Section 3. Manner of proposing measure by initiative. The manner of proposing a measure by the initiative shall be to deposit at the office of the city recorder a duly prepared petition ordering the measure to be submitted to the voters.

Section 4. Form of petition for initiative. No initiative petition shall be deemed duly prepared unless it is in the following form:

PETITION FOR REFERENDUM

To _____, recorder of the city of Brookings:

We, legal voters of the city of Brookings, Oregon, petition that the attached _____, No. _____, entitled _____ and passed _____, 19____, be referred to the legal voters of the city for their approval. Each of us for himself says: I have signed this petition; I am a legal voter of the city and my address is written correctly after my name.

1. NAME _____ ADDRESS _____

(The above petition to be drawn upon one sheet of paper, containing 20 lines identical with the above, numbered from 1 to 20 inclusive, and spaced so as to allow sufficient space for a signature upon each of said 20 lines.)

Section 9. **Time for referring referendum measure by petition.** No referendum petition shall be deemed duly prepared unless it, and the signatures requisite to its being deemed fully prepared, are deposited at the office of the city recorder within 30 days after the council enacts the measure.

Section 10. **Time for council to refer measure.** The council may refer a measure only at the session at which it enacts the measure.

Section 11. **Submission of referendum measure to voters.** The city recorder shall cause a referred measure to be submitted to the voters at the time fixed by this chapter.

Section 12. **Procedure prior to circulation of petition.** No petition shall be deemed duly prepared unless:

- A. Prior to its circulation a copy of it is deposited at the office of the city recorder.
- B. Advise the person depositing it whether it is legally sufficient in form, and if it is not so, how to make it so.
- C. Specify the mode of writing the petition and the size and kind of paper on which to write it.
- D. If he is not responsible for preparing the titles required by ordinance for the measure to which the petition relates, transmit the copy to the city attorney.

Section 13. **Requisite number of signatures.**

A. Requisite number of signatures. The number of signatures on a petition requisite to its being deemed duly prepared shall be, for an initiative petition, 15 per cent, and 1-058.13 BROOKINGS ORDINANCES 1-058.16

for a referendum petition, 10 per cent of the number of votes cast for the office of councilman at the councilmanic election last preceding the deposit of the petition at the office of the city recorder after its circulation.

B. Basis for computation. The number of votes cast for the office of councilman at an election shall be computed by adding together the votes cast at the election for the various candidates for the office of councilman and dividing the sum thus obtained by the number of offices of councilman to be filled at said election.

Section 14. Attachment of measure to sheets for signatures. No signature on a petition sheet shall be counted unless attached to it at the time of the signing of the signature is a copy of the measure to which the petition refers.

Section 15. Verification of signatures. No signature on a petition sheet shall be counted unless the person who circulates the sheet verifies it by an affidavit in the following form:

State of Oregon)
County of Curry) ss.
City of Brookings)

I, _____, being first duly sworn, state that each signer of this sheet signed it in my presence, and that I believe that he stated his name and address correctly on the sheet and is a legal voter of the city of Brookings, Oregon.

Address of Affiant:

Subscribed and sworn to before me this ___ day of ___, 19 ____.

My Commission Expires:

Section 16. Certification of signatures.

A. Certification by city recorder. Within five (5) days after a duly prepared petition is deposited at his office, the city recorder shall:

1. Compare the signatures on it with the signatures on the registration record in the office of the clerk of Curry County, Oregon;
2. Attach to the petition a certificate in the following form:

State of Oregon)
County of Curry) ss.
City of Brookings)

I, _____, city recorder of the city of Brookings, Oregon, certify that I have compared the signatures on the attached petition with the signatures on the registration records in the office of the clerk of Curry County, Oregon, and on the basis of these records I certify that the signatures of the following persons, in the number of ____ are genuine:

and that the signatures of the following persons, in the number of ____ are not genuine:

Dated: _____, 19 ____.
City Recorder _____

B. Effect on certificate. A certificate provided by this section shall be prima facie evidence of the qualifications of the voters whose signatures it certifies to be genuine. Any person who has signed the aforesaid petition and whose signature has been declared in the aforesaid certificate of recorder not to be genuine shall, within five (5) days after the date of the aforesaid certificate, personally appear before the municipal court of the city of Brookings, and under oath state, in an open session of said court, that the signature aforesaid declared not to be genuine is the true and correct signature of himself and signed by himself, and that he is a legal voter of the city of Brookings, Oregon; and if, upon such evidence, or any other evidence deemed necessary on the part of said court to be introduced in the matter, the said court shall find that in truth and in fact the signature is the signature of said person, and said person is a legal voter of said city, the court shall enter its findings to such effect in its records and thereafter issue its order to the city recorder that the said signature declared by the city recorder not to be genuine shall be accepted as genuine; and upon the service of said order of said court upon the recorder, the said recorder shall amend his certificate in accordance with the said order of said court, and thereafter the said signature shall be accepted as genuine; otherwise the certificate shall be prima facie evidence as aforesaid.

Section 17. Signatures to be counted. In determining whether a petition contains the number of signatures requisite to its being properly prepared, the city recorder shall count, except signatures forbidden by this chapter to be counted, all signatures on the petition certified thereon by said city recorder to be genuine.

Section 18. Preparation of ballot title.

A. Time for preparation. The ballot title for a measure ordered by the council, or proposed to be ordered by a petition, to be submitted to the voters shall be prepared and in the

hands of the city recorder within five (5) days after the council orders the submission, or after a copy of the petition is first deposited at the office of the city recorder.

B. Initial preparation. When the council orders submission of a measure to the
1-058.18B **BROOKINGS ORDINANCES** 1-058.21A

voters, or when a petition for ordering submission of a measure to the voters is first deposited at the office of the city recorder, the city recorder shall, within the aforesaid period of time, prepare the title and cause the said title so prepared to be filed in the record of the matter.

C. Appeal to council. A voter who has signed the petition and who is dissatisfied with the title, prepared and filed as aforesaid, within the five (5) days after it has been filed by the city recorder as aforesaid, may appeal to the council by a written appeal deposited at the office of the city recorder asking for a different ballot title for the measure and therein stating why the title prepared and filed is unsatisfactory.

D. Action of appeal. Within three (3) days after the deposit of the appeal at the office of the city recorder the council shall, either in regular or special session, afford the appellant a hearing and either approve the title or prescribe another ballot title for the measure. The title thus adopted shall be the ballot title for the measure.

Section 19. Requisites of ballot title.

A. Parts. The ballot title for a measure shall consist of a short title and a long title.

B. Short title. The short title shall be the title by which the measure is commonly spoken of, or a title for commonly referring to the measure, and shall contain not more than 10 words.

C. Long title. The long title shall state the purpose of the measure and shall contain not more than 100 words.

D. Accuracy and fairness. The ballot title for a measure:

1. Shall state truly and impartially the purpose of the measure in language which is not an argument and does not tend to create prejudice concerning the measure; and

2. Shall not resemble, so far as probably to create confusion, the ballot title for another measure to be submitted to the voters at the same election.

Section 20. Time to vote on measure. The time for voting on a measure required to be submitted to the voters shall be the first general election held more than 60 days after the latest time the measure has been proposed or referred; provided, however, the council may, at its discretion, upon its motion call for a special election upon the aforesaid measure and set forth the date of the holding thereof, all to the same effect as if the voting on the measure required to be submitted to the voters, was at the aforesaid general election.

Section 21.

Titles and numbers of measures on ballot.

A. Titles. On a ballot a measure shall appear by ballot title only.

1-058.21B

BROOKINGS ORDINANCES

1-058.23

B. Order. On a ballot for an election the sequence of measures to be voted upon shall be the sequence in which the respective measures are ordered to be submitted to the voters.

C. Measures to be distinguished. On a ballot initiative measures shall be distinguished from referred measures.

D. Numbers. On a ballot the spaces for votes on the first measure shall be designated (51 yes) and (52 no); and the spaces for votes on the succeeding measures shall be numbers consecutively (53 yes) and (54 no), (55 yes) and (56 no) and so on.

Section 22.

Notice of election.

A. Publishing and posting. The city recorder, pursuant to directions from the council, shall give at least 10 days notice of each regular or special election by posting a notice thereof in a conspicuous place in the city hall and in three (3) public places in each voting precinct of the city and by publishing the notice once each week, for two weeks immediately preceding the election in a newspaper of general circulation in the city.

B. Form. The form of the notices shall be as follows:

NOTICE OF SPECIAL ELECTION

On _____, 19 __, in the city of Brookings, Oregon, from ____ a.m. until ____ p.m., a special election will be held at which the following will be submitted to the voters for their approval

(On the above line insert number and ballot title of each measure to be voted upon at said election.)

The polling places for the election will be as follows:

Precinct	Polling Place

Witness my hand and seal of the city of Brookings, Oregon, this _____ day of _____, 19 _____.

City Recorder

[Section 22, as amended by Ordinance No. 59-O-142, adopted September 8, 1959.]

Section 23. **Notice at general election.** Where a measure is to be voted upon at a general election the notice of the election shall state that fact and the ballot title and number of each measure to be voted upon at the election.

1-058.24

BROOKINGS ORDINANCES

1-058.27B.2

Section 24. **Furnishing information of measure to county clerk.** When a measure is to be voted upon at a general election, the city recorder shall furnish the clerk of Curry County a certified copy of the ballot title and number of the measure to be voted upon at the election in conformity with the time limits established by the laws of this state. [Section 24, as amended by Ordinance No. 59-O-142, adopted September 8, 1959.]

Section 25. **Advertising measure.** In case of the submission of a measure (measures) to the voters the city recorder, not earlier than 20 and not later than 10 days prior to the election upon which the measure (measures) is to be voted upon, shall cause it to be:

- A. Published in two (2) consecutive issues of a newspaper of general circulation in the city, or
- B. Posted in five (5) public places in the city, including the city hall.

Section 26. **Election returns.** The votes in a measure shall be counted, canvassed, and returned as follows:

- A. In case of general elections, in the same manner as other votes cast at general elections in the city, and
- B. In case of special elections, in the manner provided by the city charter and ordinances.

Section 27. **Proclamation of mayor.**

A. Time and content. Immediately upon the completion of the canvass of the votes on a measure submitted to the voters pursuant to this chapter the mayor shall issue a proclamation:

- 1. Recapitulating the vote on the measure.
- 2. Declaring whether the vote shows a majority of those who voted on the measure to be in favor of it, and
- 3. In case the vote shows a majority of them to be in favor of the measure, announcing it to be effective from the date of the vote.

B. Publication or posting. The city recorder shall give public notice of the proclamation by:

- 1. Publishing it once in a newspaper of general circulation in the city, or**
- 2. Posting copies of it in five (5) places in the city, including the city hall.**

1-058.27C

BROOKINGS ORDINANCES

1-058.32

C. Filing with measure. The proclamation shall be filed with the measures.

Section 28. Effective date of measure. A measure submitted to the voters pursuant to his chapter shall take effect only when approved by a majority of the voters voting upon it.

Section 29. Measures subject to referendum. A measure, so long as it is subject to the referendum, shall have no effect.

Section 30. Conflicting measures. Of conflicting measures approved by the voters at an election, the one receiving the greater number of affirmative votes shall be paramount.

Section 31. Unlawful acts.

A. Signing by one not a voter. No person other than a voter shall sign his name to a petition.

B. Signing another's name. No person shall sign a petition with a name not his own.

C. Signing petition more than once. No person shall sign his name to a petition with knowledge that he has previously signed his name to the petition.

D. Circulating or filing petition with unlawful signature. No person shall knowingly circulate or deposit at the office of the city recorder a petition which, to his knowledge, contains a signature signed in violation of this chapter.

E. Procuring signature by fraud. No person shall procure or attempt to procure a signature to a petition by fraud.

F. Making false statement. No person shall make a statement which he knows to be false concerning a petition.

G. Making false document. No person shall make a document for which this chapter provides which contains a false statement.

H. Paying or receiving consideration for signature. No person shall pay or receive a valuable consideration for procuring a signature to a petition.

I. Officer violating chapter. No officer shall willfully violate a provision of this chapter.

Section 32. Penalty. A person who violates a provision of the aforesaid Section 1.16.310, shall be punished by:

1-058.32A

BROOKINGS ORDINANCES

1-058.33

A. A fine of not more than \$500.00; or

B. Imprisonment in the city jail for not more than 60 days; or

C. By both.

Section 33.

[Emergency clause]

[EFFECTIVE JUNE 9, 1954]