

ORDINANCE NO. 2006-05-042

AN ORDINANCE RELATING TO THE PEOPLE'S POWER TO DIRECT LEGISLATION BY INITIATIVE AND REFERENDUM AS PROVIDED IN ARTICLE X OF THE CHARTER OF THE CITY OF BELLINGHAM AND ADDING A NEW CHAPTER 1.02 TO THE BELLINGHAM MUNICIPAL CODE ENTITLED INITIATIVE AND REFERENDUM PROCEDURES.

WHEREAS, Article X of the Charter of the City of Bellingham provides that the people shall have the power to direct legislation by initiative and referendum, and

WHEREAS, the Charter is silent on some of the procedures for processing initiatives and referendums, and

WHEREAS, the lack of specific procedures for placement of initiative and referendum matters on the ballot has caused significant confusion in the past, and

WHEREAS, this chapter is intended to supplement relevant City Charter provisions, adopt applicable state election laws, and Constitutional provisions concerning the procedures for placement of citizen initiatives and referendums on the ballot,

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Bellingham Municipal Code Chapter 1.02, Initiative and Referendum Procedures, is hereby adopted as follows:

1.02.010 Purpose

This chapter recognizes that the people of the City of Bellingham have the power to propose direct legislation by initiative and referendum. It is intended to supplement provisions of the Charter of the City of Bellingham, and state and federal law governing the subject matter hereof. In the event of a conflict between the provisions of this Ordinance and any applicable superceding state or federal law, such superceding law shall control.

1.02.020 Submission of a Proposed Initiative Petition

A. The principal petitioners shall submit the proposed initiative petition to the Finance Director within 12 months prior to the election the measure is to be submitted to the voters.

The election date shall be the November general election date, unless the City Council authorizes a special election under RCW 29A.04.330 prior to submission of the proposed initiative under this Section, in which case the time periods throughout this Chapter shall be calculated by reference to such special election date.

B. Upon receipt of the petition the Finance Director shall assign a number to the proposed initiative and forward it to the City Attorney.

C. Within 10 working days of receipt, the City Attorney shall review the petition with the principal petitioners, and if the petition is in proper form, the City Attorney in consultation with the principal petitioners shall write a short, concise, true, and impartial statement of the purpose of the measure. This statement shall be the ballot title.

D. The ballot title shall consist of three elements: (1) an identification of the enacting legislative body and a statement of the subject matter; (2) a concise description of the measure; and (3) a question. The ballot title must conform with the requirement of RCW 29A.72.050, except that the concise description must not exceed 75 words.

E. Upon completion of the ballot title, the Finance Director shall file it with the County Auditor who shall provide written acknowledgement of the filing of the ballot title.

F. Upon the filing of the ballot title of a question to be submitted to the people of the City, the County Auditor shall provide notice of the ballot title to the persons proposing the measure, the City, and to any other person requesting a copy of the ballot title. Notice of the filing of the ballot title shall be by mail, messenger, and if requested, by other electronic means.

G. Persons dissatisfied with the ballot title formulated by the City Attorney have 10 working days from the date of filing of the ballot title with the County Auditor to appeal to Whatcom County Superior Court.

H. The procedures for appeal of the ballot title shall be followed as set forth in RCW 29A.36.090.

1.02.030 Form of Initiative Petition

A. On the petition to be circulated for signatures, the petitioners must include the final approved ballot title, the initiative number, a reference to any applicable City ordinances, the full text of the ordinance that petitioners seek to propose or refer to the voters, and all other text and warnings required by law.

B. Each initiative petition, at the time of circulating, signing, and registering, shall consist of not more than one sheet and not more than 20 signatures on numbered lines on each sheet with the prescribed title and a full, true, and correct copy of the proposed measure referred to therein printed, which may be printed on the reverse side;

C. There must be numbered lines for signatures with space provided beside each signature for the printed name and address of the signer and the date of signing;

D. Petitions shall be printed or typed on single sheets of white paper of good quality, not less than 11 inches in width and not less than 14 inches in length with a margin of one inch at the top, bottom, and sides of the petition for office use only; and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition.. To ensure the integrity of signatures, each sheet shall also contain the following warning:

WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is not otherwise qualified to sign, or makes herein any false statement, shall be guilty of a misdemeanor.

E. Each signature shall be executed in ink and shall be followed by the printed name and address of the signer and the date of signing.

F. Petition forms for submission to the voters shall include the warning language contained above and be in substantially the following form:

**INITIATIVE (OR REFERENDUM) PETITION FOR SUBMISSION
TO THE CITY COUNCIL OF BELLINGHAM, WASHINGTON**

TO: Finance Director, City of Bellingham, Washington:

We, the undersigned registered voters of the City of Bellingham, Washington, respectfully direct that this petition and the proposed measure known as City of Bellingham Initiative No. _____, and entitled (here insert the established ballot title of the measure), a full, true, and correct copy of which is attached to this petition, be transmitted to the City Council of the City of Bellingham, Washington and we respectfully petition the City Council to enact said proposed measure into law; furthermore, if the City Council fails to enact this measure that it be submitted to a vote of the people at a regular or special election to be held on a date and in the manner required by the Revised Code of Washington; and each of us for himself or herself says:

I have personally signed this petition, I am a legal voter of the City of Bellingham, Whatcom County, State of Washington, and my address is correctly stated on this petition and I have knowingly signed this petition only once.

1.02.040 Time Limits for Filing Signed Initiative Petitions

A. Signed initiative petitions shall be filed with the Finance Director no later than 130 calendar days prior to the November general election date. If such date falls on a weekend or legal holiday then the filing deadline shall extend to the end of the next working day.

B. Within three working days after the filing of the signed initiative petition, the Finance Director shall transmit the petition to the County Auditor who shall verify the sufficiency of the signatures as provided herein and notify the Finance Director.

C. The County Auditor shall proceed to make a determination of sufficiency with reasonable promptness and shall file with the Finance Director a written certificate stating the date upon which such determination was begun. Such date shall constitute the terminal date for the purpose filing signed petition pages. Additional pages of the signed initiative petition may be added by filing the same with the Finance Director prior to such terminal date.

D. Any signer of a filed petition may withdraw his or her signature by a written request for withdrawal filed with the Finance Director prior to such terminal date. The written request shall so sufficiently describe the petition as to make identification of the person and the petition certain. The name of any person seeking to withdraw shall be signed exactly the same as contained on the petition and, after the filing of such a request for withdrawal, prior to the terminal date, the signature of any person seeking such withdrawal shall be deemed withdrawn.

E. Not more than 20 calendar days after the filing of the petition, the Finance Director shall transmit the petition, together with the County Auditor's written certificate of sufficiency, to the City Council at a regular meeting.

F. If the Finance Director finds, based upon the County Auditor's written certificate, that a petition is insufficient in signatures, he or she shall notify the principal petitioners and an additional 20 calendar days shall be allowed them in which to obtain the required percentage. This additional 20 calendar days is an extension of the filing period during which all signatures obtained after the filing deadline established in BMC 1.02.040 A. may be submitted.

G. If it is determined by the Finance Director, based upon the County Auditor's certification, following the additional 20 day period, that the signatures are insufficient then an initiative measure may not be considered by City Council. The Finance Director shall report the finding of insufficiency to the City Council for information only.

1.02.050 Sufficiency of the Petition-Determination by Auditor

A. To be sufficient a petition must contain valid signatures of qualified registered voters, as determined by the County Auditor, in the number required by Bellingham City Charter Sect. 10.02.

B. Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved.

C. A variation on petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the signature on the petition if the surname and handwriting are the same.

D. If the County Auditor finds the same name signed to more than one petition, he or she shall reject all but the first such valid signature.

E. Signatures followed by a date of signing that is more than six months prior to the date of filing of the signed initiative petition shall be stricken.

F. The County Auditor shall verify the sufficiency of the signatures on the petition and shall transmit the written certificate of sufficiency or insufficiency to the City Finance Director with whom the petition was originally filed.

1.02.060 Appeal of the Sufficiency Determination

Decisions to refuse to validate petitions may be reviewed by the Whatcom County Superior Court within 10 working days after the refusal. This appeal takes precedence over other cases and matters and must be speedily heard and determined.

1.02.070 Acceptance, Rejection, or Deferral of the Initiative Petition

When a sufficiency of signatures has been determined the petition shall be deemed an initiative bill. The City Council may enact or reject any initiative bill, but may not amend or modify the same, provided that the City Council may, after rejection of any initiative bill, propose and pass a different one dealing with the same subject. In the alternative, the City Council may defer the matter to the voters which deferral shall constitute a technical rejection under the City Charter and the remaining provisions of this Chapter.

1.02.080 Initiative - Submission to the Electorate

A. If the City Council defers the matter to the voters, or fails to take final action thereon within 30 days after receipt thereof, the initiative bill shall be submitted by the Finance Director to the County Auditor's Office for submission to the qualified electors for approval or rejection at the next general election, or special election date if authorized by the City Council.

B. The City Council may, after rejection of the initiative bill, pass a different bill dealing with the same subject. The alternative bill shall be submitted at the same election with the initiative bill. The ballot titles of both bills shall be printed on the official ballots so that a voter can express separately by making one choice for each of two preferences: first as between either measure and neither; and secondly, as between one and the other. Only if a majority of all votes cast favor either bill in the first proposition, shall one of the bills so proposed be adopted. The measure adopted shall be the measure receiving the greater number of votes of the alternative measures.

C. Any bill submitted to the vote of the people, which shall receive a majority of all votes cast for and against the same, shall become an ordinance of the City of Bellingham, and be in full force and effect, and be published in the City official newspaper within 10 days after the official canvass of the ballots pursuant to law.

1.02.090 Referendum- Petition Procedure

A. The referendum procedure may be invoked by a petition bearing the signatures of the required percentage of qualified voters as to any ordinance, or any section, item, or part of any such ordinance as provided in the Bellingham City Charter Section 10.08. The referendum power and the limitations on the referendum power remain as provided in Bellingham City Charter Section 10.08.

B. The filing of the referendum petition as to any ordinance or section, or item or part thereof, shall operate to abate the ordinance or any further action thereon. The fact that an ordinance is already in effect shall not bar the referendum procedure.

C. The form of the referendum petition shall conform to the requirements of BMC 1.02.030 and shall include a copy of the ordinance referred.

D. Sufficiency of signatures on the referendum petition shall be determined as provided in BMC 1.02.050.

1.02.100 Time Limits for Signed Referendum Petition

A. The referendum petition shall be filed with the Finance Director within 30 days following the effective date of the ordinance, as provided in section 3.04 of the Bellingham City Charter.

B. Within three working days after the filing of the referendum petition, the Finance Director shall transmit the petition to the County Auditor who shall verify the sufficiency of the signatures as provided herein and notify the Finance Director.

C. Not more than 20 days after the filing of the referendum petition, the Finance Director shall transmit the petition, together with the County Auditor's written certificate of sufficiency, to the City Council at a regular meeting.

1.02.110 Referendum- Submission to the Electorate

A. Upon receipt of the referendum petition as provided in BMC 1.02.090 (C) the City Council shall pass a resolution submitting the said ordinance, or section, item or part thereof, to the vote of the qualified electors for ratification or rejection either at the next general election or at a special election, as City Council in its discretion may provide.

B. If the ordinance submitted to the voters shall receive in its favor a majority of all votes cast for and against the same, it shall be in full force and effect, and be published in the City official newspaper within 10 days after the official canvass of the ballots pursuant to law.

1.02.120 Initiative – Referendum – Amendment or Repeal

Every ordinance initiated or referred and approved as provided in the preceding sections may be amended, revised, or repealed by the City Council, provided that no such ordinance may be so amended, revised, or repealed within two years after the effective date thereof.

PASSED by Council this ____ day of _____, 2005.

Council President

APPROVED by me this ____ day of _____, 2005.

Mayor

Attest:

Finance Director

Approved as to Form:

Office of the City Attorney

Published: