

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

90-027

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance)
 Establishing a Yamhill County)
 Voters' Pamphlet For County) ORDINANCE NO. 498
 City, and District Measures)
 and Candidates, Effective)
 January 10, 1990, and Declaring)
 an Emergency)

FILED 1990
 JAN 11 3 17 PM '90
 CHARLES STERN
 COUNTY CLERK
 DEPUTY

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) on the 10th day of January, 1990, sat for the transaction of county business in regular session, Commissioners David E. Bishop, Dennis L. Goecks and Ted Lopuszynski being present.

WHEREAS, on January 29, 1986, the Board adopted Ordinance 425 which established the Yamhill County Voters' Pamphlet; and

WHEREAS, on February 11, 1987, the Board adopted Ordinance 440 which made certain amendments thereto; and thereafter amended Ordinance 440 by Ordinances 459, 473 and 474; and

WHEREAS, Ordinance 474 conflicts with newly promulgated Oregon Administrative Rules governing the March, 1990 election; and

WHEREAS, the Board desires to make the Yamhill County Voters' Pamphlet substantially consistent with the Oregon Administrative Rules; and

WHEREAS, on January 3 and January 10, 1990, the Board held a public hearing to consider changes to the Voters' Pamphlet Ordinance No. 474; and

WHEREAS, the Board finds that the Yamhill County Voters' Pamphlet is an important device in informing voters of county measures and therefore finds the continuation of a county voters' pamphlet to be in the best interests of the citizens of Yamhill County; and

WHEREAS, the Board finds that the expenses generated in publication of the county voters' pamphlet are now recoverable as election costs under State law; NOW, THEREFORE

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Definitions.

- 1.01 "Board" means the Yamhill County Board of Commissioners.
- 1.02 "City" means any incorporated city lying wholly or partially within Yamhill County.
- 1.03 "Clerk" means the Yamhill County Clerk or the clerk's designee.
- 1.04 "County" means Yamhill County.
- 1.05 "District" has that meaning given by ORS 255.012 (1987 replacement part).
- 1.06 "Elector" means an individual qualified to vote under Article II, Section 2, of the Oregon Constitution. An "elector" is a "registered voter."
- 1.07 "Measure" means any of the following submitted to the people for approval or rejection at an election:
- (a) A proposed ordinance.
 - (b) Legislation referred by the governing body.
 - (c) A proposition or question placed on the ballot by the governing body.
 - (d) A proposition or question placed on the ballot by referendum or initiative petition, which proposition or question directly affects the county, city, or district involved.
 - (e) The term "measure" as utilized in this ordinance does not include the question of whether a person should be recalled from public office.
- 1.08 "Registered voter" means an elector duly registered with the Yamhill County Clerk to vote. A "registered voter" is an "elector".

Section 2. Voters' Pamphlet.

2.01 When published.

(a) A voters' pamphlet shall be published by the clerk for each election date specified in ORS 255.345(1) (1989 replacement part) for which a county, city or district measure has been submitted or for which a candidate for county, city or district office has filed a statement of candidacy.

(b) The clerk shall mail the voters' pamphlet to all households of electors registered to vote in Yamhill County who are qualified to vote on the measure or candidate appearing on the ballot.

2.02 Consolidation of measures; additional notice.

(a) Nothing in this section requires the clerk to send out separate voters' pamphlets for each measure; rather all measures may be combined into one pamphlet and mailed to all affected voters.

(b) The clerk may use such additional means of distribution as the clerk determines necessary to make pamphlets available to the voters.

2.03 Time for mailing or otherwise transmitting voters' pamphlet.

(a) In a vote-by-mail election, the clerk shall mail or otherwise deliver the voters' pamphlet on or before the date on which the clerk mails the ballot to the voters.

(b) In a poll election, the clerk shall mail or otherwise deliver the voters' pamphlet within the time specified by law for transmittal of notice of election.

2.04 Mandatory Contents of the Voters' Pamphlet. The clerk shall include in the voters' pamphlet:

(a) Requirements for a citizen to qualify as an elector.

(b) Requirements for registration of an elector.

(c) Instructions explaining how to obtain and use an absentee ballot.

(d) Statement on the cover that the pamphlet may be used to assist the elector at the polls.

(e) Instructions to electors including the rights of a registered voter to request a second ballot if the first ballot is spoiled; the right of a registered voter to take into the voting booth a cancelled ballot marked in advance; and the right of a physically disabled registered voter to seek the assistance of the election board clerk or someone of the voter's own choosing in marking the ballot.

(f) The ballot title of the measure. The ballot title to be printed in the voters' pamphlet shall be as set forth in the notice of election filed with the clerk, unless the court certifies a different ballot title than that filed with the clerk. In such a case, the clerk shall print the ballot title as modified by the court.

(g) An explanatory statement for each measure as specified in Section 3.

(h) The candidates for county, city, or district office.

(i) Notice to the registered voter as to the manner in which the election will be conducted, i.e., whether the election will be by mail or at the polls.

2.05 Optional Contents of the Voters' Pamphlet.

(a) Measures.

(i) At the request of a registered voter qualified to vote on the measure, an argument submitted in accordance with the requirements of Section 4 shall be included in the voters' pamphlet.

(b) Candidates. A candidate for a county, city or district office may submit a candidate's statement and photograph for inclusion in the voters' pamphlet. The statement and photograph are subject to the following requirements:

(i) A candidate's statement shall be typewritten and submitted on a form provided by the county clerk. The statement shall consist of the following:

(A) A candidate's statement shall only consist of words or numbers and shall not exceed 325 words.

(B) A candidate's statement shall begin with a summary of the candidate's occupation, educational and occupational background and prior governmental experience.

- (C) A candidate's statement shall include the name of the person responsible for the content of the statement.
- (D) Candidate statements are exempt from public inspection until the 4th day after the final day for filing the materials.
- (ii) The completed candidate's statement, photograph, and filing fee shall be filed with the county clerk no later than 5:00 p.m. on the 2nd business day after the deadline for filing a petition of nomination or declaration of candidacy.
- (iii) Photograph requirements for inclusion in the voters' pamphlet are as follows:
- (A) The photograph must have been taken not more than two years prior to the day submitted.
- (B) The photograph should be 3 inches high and 2 inches wide and processed in a manner suitable for reproduction.
- (C) The photograph must have a plain background.
- (D) The photograph must show the face, neck and shoulders.
- (E) The photograph shall not show the hands or anything held in the hands.
- (F) The photograph shall not show a judicial robe, a hat, or military, police, or fraternal uniform.
- (G) The photograph shall not show the uniform or insignia of any organization or entity.
- (iv) Filing fee. Each candidate's statement filed shall be accompanied by a fee in the amount of \$25 for unpaid offices and \$100 for paid offices. A refund may be requested by the person that paid the filing fee no later than the last day for filing the candidate's statement. When a refund is made, the candidate's statement will not be printed in the voters' pamphlet.
- (v) The county clerk shall reject any candidate's statement that:

(A) Contains any obscene, profane, scandalous or defamatory language;

(B) Incites, promotes or advocates hatred, abuse, violence, or hostility toward or which tends to cast ridicule or shame upon any person or group by reason of race, color, religion or manner of worship; or

(C) Contains any language which may not legally be circulated through the mails.

(c) Additional information. The clerk shall publish additional information in the voters' pamphlet as directed by the county governing body subject to the following conditions:

(i) The information is in the public interest as determined by the county governing body.

(ii) Publication of the information will not result in an increase in the number of pages necessary to publish matters otherwise required to be included in the voters' pamphlet.

(iii) The information does not directly relate to any measure or candidate appearing in the voters' pamphlet. The clerk shall have the sole authority to determine whether the proposed information "directly relates" to a measure or candidate.

(iv) The information is timely submitted to the clerk, as determined by the clerk.

2.06 Ballot Title. The ballot title to be printed in the voters' pamphlet shall be as set forth in the notice of election filed with the clerk, unless the court certifies a different ballot title than that filed with the clerk. In such a case, the clerk shall print the ballot title as modified by the court.

Section 3. Explanatory Statements

3.01 Filing deadlines; Who files.

(a) Measures referred by governing body. The governing body of the county, a city or a district that has referred a measure to the voters may submit an explanatory statement to the county clerk not later than 5:00 p.m. on the deadline for filing a notice of election. If the governing body does not submit an explanatory statement, the official responsible for drafting a ballot title for initiative measures for the governing body's electoral district shall submit an explanatory statement to the county clerk no later than 5:00 p.m. on the 3rd business day after the deadline for filing a

notice of election. If the official does not file an explanatory statement, the county clerk shall provide an explanatory statement.

(b) Initiative measures and referendums. When an initiative measure or referendum measure is certified for election, an explanatory statement shall be prepared and submitted to the clerk by the official responsible for drafting a ballot title for initiative measures for the effected electoral district. The explanatory statement shall be filed with the county clerk no later than 5:00 p.m. on the 3rd business day after the deadline for filing a notice of election had the measure been submitted by the governing body. If the official does not file an explanatory statement, the county clerk shall provide an explanatory statement.

3.02 Contents of Explanatory Statement. The explanatory statement shall consist of words or numbers only, shall not exceed 325 words and shall be an impartial, simple, and understandable statement explaining the measure and its effects. The explanatory statement shall include the name of the person responsible for the content of the statement and the name of the governing body he or she represents. The explanatory statement set forth in this ordinance shall be in addition to the ballot title requirement as set forth in state statute.

3.03 Availability of Proposed Explanatory Statement to the Public. The clerk shall keep available to the public in the clerk's office a full and complete copy of all explanatory statements filed pursuant to this ordinance.

3.04 Challenge and Review of Explanatory Statements.

(a) Any Yamhill County elector who is eligible to vote on the measure and is dissatisfied with the explanatory statement submitted under this section may challenge the explanatory statement by filing a petition with the county clerk no later than 5:00 p.m. on the 5th day after the deadline for filing the explanatory statement. The petition shall request administrative review of the explanatory statement. The elector must include in the request the reasons why the explanatory statement is not impartial, is insufficient or is unclear.

(b) Upon receipt of the petition described in subsection (a), the county clerk shall schedule a hearing to be conducted as follows:

(i) The hearing shall be conducted within two (2) business days from the date the petition was filed.

(ii) The clerk shall provide notice of the time and place of the hearing to the following persons:

(A) If the statement explains a measure referred to the voters by the governing body, the clerk shall notify the petitioner, the governing body, and the person who prepared the explanatory statement.

(B) If the statement explains a measure referred to the voters by initiative or referendum, the clerk shall notify the petitioner, the governing body affected by the measure, the chief petitioner of the initiative or referendum, and the person who prepared the explanatory statement.

(iii) At the hearing, all persons entitled to notice from the clerk shall have the opportunity to present evidence and testimony on the question of impartiality, sufficiency or clarity of the explanatory statement.

(iv) The clerk or the clerk's designee may leave the explanatory statement in its original form or may modify the explanatory statement. A final disposition shall be made by the clerk within 24 hours of the conclusion of the hearing.

Section 4. Arguments.

4.01 Who May File.

(a) Arguments may be filed pursuant to this section and in accordance with Section 2.05 by an elector registered to vote in Yamhill County who is qualified to vote on the measure and who complies with the criteria required for the applicable election date as set forth below:

(i) For any election for which the State mandates procedures for a voters pamphlet published by a county, the filing criteria set forth in the enabling State legislation or administrative rules shall govern the submittal, qualification and publication of an argument opposing or supporting a measure.

(ii) For any other election, except the May 15, 1990 primary election, each argument opposing or supporting a measure shall be accompanied by a filing fee. The fee shall be \$100 where the measure effects a city or district comprised of less than 1000 registered voters, \$200 where the measure effects a city or district comprised of 1000 to 5000 registered voters, and \$300 where the measure is a county measure or where the measure effects a city or a district comprised of more than 5000 registered voters.

(iii) For the May 15, 1990 primary election, each argument opposing or supporting a measure shall be accompanied by the filing fee set forth in Section 4.01(a)(ii) or shall be accompanied by a petition requesting a specific argument be included in the voters' pamphlet which has been signed by at least 100 Yamhill County residents who are electors qualified to vote on the measure. The specific argument must comply with Section 4.03 and must be filed with the county clerk prior to signatures being obtained by the petitioner, who must be an elector qualified to vote on the measure. The clerk shall provide an original form of petition which shall contain the text of the argument as submitted by petitioner on the reverse of the petition.

4.02 Filing Deadline. Arguments supporting or opposing the measure must be filed not later than the fifth business day after the last day on which the notice of election may have been filed.

4.03 Form of Argument.

(a) The argument filed shall be in words and numbers only, shall be typewritten, and shall consist of no more than 325 words.

(b) The clerk shall reject any argument which:

(i) Contains any obscene, profane, scandalous or defamatory language.

(ii) Incites, promotes, or advocates hatred, abuse, violence or hostility toward or which tends to cast ridicule or shame upon any person or group by reason of race, color, religion, or manner of worship;

(iii) Contains any language which may not legally be circulated in the mails.

4.04 Requirement for Argument and Disclaimer. Each argument submitted shall be subscribed and sworn to before a notary or the clerk, and the subscription shall be in the following form:

"I HEREBY SUBSCRIBE AND SWEAR UNDER
PENALTY OF LAW THAT THE ABOVE-SUBMITTED
ARGUMENT IS TRUE AND ACCURATE TO THE
BEST OF MY KNOWLEDGE AND BELIEF."

The argument shall also contain the name of the person submitting; the name of the organization the person represents, if any; whether the argument supports or opposes the measure; and a disclaimer in substantially the following form:

"THE PRINTING OF THIS ARGUMENT DOES NOT CONSTITUTE AN ENDORSEMENT BY YAMHILL COUNTY NOR DOES THE COUNTY WARRANT THE ACCURACY OR TRUTH OF ANY STATEMENTS MADE IN THE ARGUMENT."

4.05 The language referred to in Section 4.04 shall not be included in the 325 word limitation set forth in Section 4.03.

Section 5. Miscellaneous Matters.

5.01 Spacing and Type Size. The clerk shall have authority to determine type size and spacing to be used in the printing of explanatory statements and arguments. The clerk shall exercise this authority only for the purpose of ensuring that each explanatory statement or argument occupies no more than one page of the printed voters' pamphlet. A page for the purposes of this ordinance means 46 1/2 square inches.

5.02 Deadline Interpretation. A measure, explanatory statement, or argument, together with the required fee, must be filed with the county clerk not later than 5:00 p.m. of the day the document or fee is due. If the day the document or fee is due is a Saturday, Sunday, or holiday, the document or fee must be filed by 5:00 p.m. on the next business day. If a person is physically present in the county clerk's office and is in line waiting to deliver the document or fee at 5:00 p.m., the person shall be considered as having begun the act of delivering the document or fee and shall be permitted to file it so long as that person does not leave the county clerk's office.

5.03 Except as provided in Section 4.01(a)(ii), the clerk shall reject for publication in the voters' pamphlet any item submitted where the item is not submitted with the applicable filing fee.

Section 6. Notice of Election; Recovery of Costs.

6.01 The publication and distribution of the Yamhill County Voters' Pamphlet shall be accomplished under the authority of the Yamhill County Clerk and may provide the notice provided in ORS 255.215 (1987 replacement part).

6.02 To the extent allowed by State statute or administrative law, the cost of publication of the voters' pamphlet shall constitute a recoverable election cost.

6.03 Revenues derived pursuant to this ordinance shall be utilized to offset the cost of producing the Yamhill County Voters' Pamphlet.

Section 7. Short Title.

7.01 This ordinance may be referred to as the "Yamhill County Voters' Pamphlet Ordinance."

Section 8. Severability.

8.01 If any section, sentence, clause or phrase of this ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the decision shall not effect the validity of the remainder of this ordinance. Each section, sentence, clause, and phrase of this ordinance is severable.

Section 9. Repeal of Other Ordinances.

9.01 Ordinances 440, 459, 473 and 474 are hereby repealed and of no further force or effect.

Section 10. Effective Date.

10.01 This ordinance being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, shall be effective on passage this 10th day of January, 1990.

DONE at McMinnville, Oregon this 10th day of January, 1990.

ATTEST: YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STEWARD
County Clerk

By: *Elaine Pearcey*
Deputy ELAINE PEARCEY

APPROVED AS TO FORM BY:
John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

David E. Bishop
Chairman DAVID E. BISHOP

Dennis L. Goecks
Commissioner DENNIS L. GOECKS

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI