

## RESOLUTION

**A RESOLUTION AUTHORIZING THE CALLING AND HOLDING OF A PRIMARY AND A GENERAL ELECTION IN THE CITY OF OKLAHOMA CITY FOR THE PURPOSE OF ELECTING COUNCILMEMBERS FROM WARDS 1, 3, 4, and 7 OF THE CITY OF OKLAHOMA CITY; SETTING FORTH CERTAIN FACTS REQUIRED BY STATE LAW; SETTING THE DATE OF THE PRIMARY ELECTION AS TUESDAY, FEBRUARY 9, 2021; SETTING THE DATE OF THE GENERAL ELECTION, IF NEEDED, AS APRIL 6, 2021; DIRECTING THE CITY CLERK TO DELIVER A CERTIFIED COPY OF THIS RESOLUTION TO THE SECRETARY OF THE OKLAHOMA COUNTY ELECTION BOARD ON OR BEFORE NOVEMBER 20, 2020 FOR THE PURPOSE OF GIVING SUCH OFFICER OFFICIAL NOTICE OF SAID ELECTIONS; SETTING THE DATES OF THE FILING PERIOD FOR SUCH ELECTIONS AS MONDAY, TUESDAY, AND WEDNESDAY, DECEMBER 7, 8, AND 9, 2020, RESPECTIVELY; DIRECTING THE CITY CLERK TO FORTHWITH SUBMIT A CURRENT, CERTIFIED COPY OF THE OKLAHOMA CITY CHARTER TO SAID ELECTION BOARD AS REQUIRED BY SECTION 13-109 OF TITLE 26 OF THE OKLAHOMA STATUTES; AND FURTHER DIRECTING THE CITY MANAGER TO FORTHWITH ORDER THE APPROPRIATE CITY OFFICER OR EMPLOYEE TO PROVIDE THE OKLAHOMA COUNTY ELECTION BOARD WITH A CURRENT CITY MAP AS REQUIRED BY SECTION 13-107 OF TITLE 26 OF THE OKLAHOMA STATUTES.**

**WHEREAS**, under and by virtue of the current version Section 1, Article X of the Oklahoma City Charter, as amended ("Charter"), it is provided that a primary election shall be held in March of odd-numbered years for the purpose of nominating candidates for the office of Councilmember whose then-current terms of office expire in that year; and

**WHEREAS**, under and by virtue of Section 6, Article X of the Charter, it is provided that a general election shall be held on the first Tuesday in April in such odd-numbered years for the purpose of electing said Councilmembers if no candidate therefor receives a majority of all the votes cast in the primary for the office (ward) for which he or she was a candidate; and

**WHEREAS**, as amended in 2016, 26 O.S. § 3-101(B), a State law constituting a matter of statewide concern, no longer allows municipal elections for officers to be held in the month of March, but instead permits such elections to be held in any year on the second Tuesday in the month

of February and on the first Tuesday in the month of April; and 26 O.S. § 13-103 provides that “[a]ll municipal elections, including elections for municipalities with home rule charters, shall be held only on dates identified in Section 3-101 of this title;” and

**WHEREAS**, as amended in 2015, 11 O.S. § 16-102(D), a State law constituting a matter of statewide concern, provides that “no county election board shall be required to conduct a regular or special election for any elective municipal office in any municipality governed by charter unless the resolution calling the election shall set a candidate filing period of three (3) days to begin not more than twenty (20) days from the date the resolution is required to be submitted to the county election board”; and such amended statute supersedes the filing period set forth in Section 2, Article X of the Charter; and

**WHEREAS**, as amended in 2015, 11 O.S. § 16-102(B), a State law constituting a matter of statewide concern, further provides that “[i]n no case shall a resolution calling a regular or special election be submitted to the county election board less than sixty (60) days preceding the election date,” or, per 26 O.S. § 3-101(D), no less than seventy-five (75) days preceding such election date if the election is to be held on the same date as any regular or special election of the State of Oklahoma; and

**WHEREAS**, Section 1, Article X of the Charter indicates an intent that Oklahoma City elections shall be conducted by the county election boards in those counties located within the corporate limits of Oklahoma City, and 26 O.S. § 13-101.1 provides that “[n]o county election board shall be required to conduct elections for any municipality on a date other than an election date identified in...of Section 3-101 of this title;” and further, said Charter section provides that Certificates of Election for the Mayor and City Councilmembers shall be issued by the appropriate county election boards; and

**WHEREAS**, the Council finds that there is no legal alternative except to comply with the aforesaid State election laws, as such laws are a matter of Statewide concern, and further, compliance with such laws is consistent with the intent of the Charter since such intent is that Oklahoma City elections shall be conducted by the appropriate county elections boards; and

**WHEREAS**, the current terms of the Councilmembers from Wards 1, 3, 4, and 7 will end in April of 2021; and

**WHEREAS**, the year 2021 is a designated year for the purpose of electing said officers; and

**WHEREAS**, based on the State laws cited previously in this Resolution, the Council wishes to call a primary election in Wards 1, 3, 4, and 7 for the second Tuesday in February in 2021, and a general election in such Wards, if necessary, for the first Tuesday in April in 2021, and to set the filing period for such offices as further provided for by State law; and

**WHEREAS**, to be eligible for election to a municipal office, such as the office of Oklahoma City Councilmember, a candidate need comply only with the qualifications for municipal office as set forth in State law and any legally valid qualifications for municipal office set forth in a municipal charter; and

**WHEREAS**, to be eligible for election to a municipal office, such as Oklahoma City Councilmember, State law requires a candidate to meet the following qualifications:

- 1) Under and by virtue of Section 8-101 of Title 11 of the Oklahoma Statutes, a municipal elected official must be a registered voter of the municipality in which he or she holds office and a council member from a ward must be an actual resident of his/her ward; and
- 2) Under and by virtue of Section 16-102(A) (last sentence) and 16-110 of Title 11 of the Oklahoma Statutes, a candidate seeking municipal office from a ward must be a registered voter at an address within the ward for at least six (6) months prior to filing a declaration of

candidacy for said office; and

**WHEREAS**, under and by virtue of Section 1, Article X of said Charter, it is provided that candidates seeking to become Councilmembers shall be residents of the ward from which they seek to be elected; this Charter requirement matches State law as quoted above; and

**WHEREAS**, Section 2, Article X of said Charter provides that, to file for such office: (1) the candidate shall submit a written declaration of candidacy setting forth the candidate's name as he or she desires it to appear upon the ballot, his or her address by street number, his or her ward, and the name of the office for which he or she desires to become a candidate; and that (2) the declaration of candidacy must be accompanied by a cashier's check or certified check in the amount of \$200.00, or in the alternative, by a petition supporting the candidate's filing signed by 2,500 registered voters eligible to vote for the candidate if the filing is for the office of Mayor or by 500 registered voters eligible to vote for the candidate if the filing is for the office of Councilmember; and that if a cashier's or certified check is submitted to the Oklahoma County Election Board pursuant to this subsection, said check shall be forfeited to the said Election Board and the proceeds therefrom used to defray the costs of the election for the office for which the declaration of candidacy was filed; provided, said check shall be returned to the candidate immediately if the candidate is unopposed in the Primary Election, receives more than fifteen percent (15%) of the total votes cast in the Primary Election for the office for which he or she is a candidate, or becomes a candidate in the General Election.; and

**WHEREAS**, Section 13-102(A) of Title 26 of the Oklahoma Statutes requires the governing board of a municipality to submit a resolution to the secretary of the county election board conducting the election not fewer than fifteen (15) days before the filing period for any municipal election for the purpose of giving notice of such election; and

**WHEREAS**, Section 13-102(A) of Title 26 of the Oklahoma Statutes further requires said resolution to contain the following facts:

1. The dates of the election or elections;
2. The offices to be filled or the questions to be voted upon at said election or elections;
3. Qualifications for said offices;
4. Designation of which offices shall be filled by voting by ward and which offices shall be filled by voting at-large; and
5. Indication of whether the election will be partisan or nonpartisan;
6. For charter cities where the Charter is silent, indication of any portion of state law which will apply; and
7. Any other information necessary for conducting said election or elections; and

**WHEREAS**, Section 13-109 of Title 26 of the Oklahoma Statutes requires a municipality operating under a Charter to furnish a copy of said Charter to the county election board of the county wherein said municipality's central offices are located; and

**WHEREAS**, Section 13-107 of Title 26 of the Oklahoma Statutes requires the governing board of a municipality to provide the county election board with a current map defining the municipal limits and ward boundaries of said municipality; and

**WHEREAS**, the Council of The City of Oklahoma City desires to authorize the calling and holding of said primary and general elections in Wards 1, 3, 4, and 7 and to submit the required resolution and other items to the Secretary of the Oklahoma County Election Board.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of The City of Oklahoma City that the Mayor be authorized, pursuant to the provisions of Section 3, Article X of the Oklahoma City Charter, as amended, and in accordance with applicable State laws constituting a matter of statewide concern, to call a primary election for Tuesday, February 9, 2021, and a general

election for Tuesday, April 6, 2021, if necessary, for the purpose of electing a Councilmember from each of Wards 1, 3, 4, and 7 for full terms of four (4) years each.

**AND, BE IT FURTHER RESOLVED** that the filing period for Council candidates for said elections shall be Monday, Tuesday, and Wednesday, December 7, 8, and 9, 2020, respectively.

**AND, BE IT FURTHER RESOLVED** that the said elections shall be held by the County Election Board of Oklahoma County, and assisted by the election boards of affected counties in the portions of said City situated within each of the precincts in each of said wards, pursuant to the laws of the State of Oklahoma.

**AND, BE IT FURTHER RESOLVED** that the said elections shall be had and held in the manner and form provided by law, pursuant to the Charter of said City, as amended, and the laws of the State of Oklahoma, by the County Election Board of Oklahoma County, and assisted by the election board of the affected counties in the applicable portions of said City situated in each of said counties, respectively, and that the results of said elections herein provided for shall be by the said county election boards certified to the Mayor and Council through the City Clerk in the manner and form provided by law.

**AND, BE IT FURTHER RESOLVED** that the Mayor and Council of The City of Oklahoma City do hereby adopt this resolution as required by Section 13-102(A) of Title 26 of the Oklahoma Statutes and do hereby set forth the following facts as required by said statutory provision:

1. The primary election for the purpose of electing Councilmembers from Wards 1, 3, 4, and 7 of The City of Oklahoma City shall be held on Tuesday, February 9, 2021. In the event that no candidate receives a majority of all the votes cast at the primary election for the office for which he or she was a candidate, then a general election shall be held on Tuesday, April 6, 2021, between the two candidates who receive the highest number of votes at said primary for each respective office.
2. The offices to be filled at said elections are the offices of Councilmember from each

of Wards 1, 3, 4, and 7 of The City of Oklahoma City.

3. The qualifications for the office of Councilmember of The City of Oklahoma City are as follows:
  - A. Article II, Section 6 of the Oklahoma City Charter provides that a person must be a citizen of the United States and of the State of Oklahoma, a qualified voter in The City of Oklahoma City, and a resident of the ward for which representation is sought for at least six (6) months. These Charter qualifications for the office of Councilmember are consistent with the State law qualifications for holding municipal elective office.<sup>1</sup>
  - B. Section 8-101 of Title 11 of the Oklahoma Statutes provides that a municipal elected official must be a registered voter of the municipality in which he or she holds office and all council members from wards shall be actual residents of their respective wards.
  - C. Section 16-102(A) (last sentence) and 16-110 of Title 11 of the Oklahoma Statutes provide that candidates seeking municipal office from a ward must be a registered voter at an address within the ward for at least six (6) months prior to filing a declaration of candidacy for said office.
  - D. Article X, Section 1 of the Charter provides that candidates for Councilmember must be residents of the ward from which they seek to be elected. This Charter requirement is consistent with the State law qualifications for holding municipal elective office.
4. The offices of Councilmembers from Wards 1, 3, 4, and 7 of The City of Oklahoma City shall be filled only by voting by the qualified, registered voters who reside within the limits and boundaries of Wards 1, 3, 4, and 7 of The City of Oklahoma City, respectively.
5. The election shall be nonpartisan in nature.
6. The election laws of the State of Oklahoma shall apply to the said election.
7. And, furthermore, the filing period for Council candidates for said elections shall be Monday, Tuesday, and Wednesday, December 7, 8, and 9, 2020, respectively; and; the procedure for the filing of a declaration of candidacy and other necessary documents is set forth in said Article X, Section 2.

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<sup>1</sup> The requirement in Article II, Section 6 of the Oklahoma City Charter that a Councilmember must be at least 21 years of age is inconsistent with the weight of Federal case law and therefore is not legally applicable. The age requirement under State law is 18 years of age, which is the legal age to become a registered voter in the ward.

**AND, BE IT FURTHER RESOLVED** that the Mayor and Council of The City of Oklahoma City do hereby direct the City Clerk to submit this resolution to the Secretary of the Oklahoma County Election Board on or before November 20, 2020.

**AND, BE IT FURTHER RESOLVED** that the Mayor and Council of The City of Oklahoma City do hereby direct the City Clerk to forthwith submit a current certified copy of the Oklahoma City Charter to the Oklahoma County Election Board as required by Section 13-109 of Title 26 of the Oklahoma Statutes.

**AND, BE IT FURTHER RESOLVED** that the Mayor and Council of The City of Oklahoma City do hereby direct the City Manager to forthwith order the appropriate City officer or employee to provide the Oklahoma County Election Board with a current map defining the municipal limits and ward boundaries of The City of Oklahoma City as required by Section 13-107 of Title 26 of the Oklahoma Statutes; and further, to provide any other documents or information requested by the Oklahoma County Election Board.

**ADOPTED** by the Council and **APPROVED** by the Mayor of The City of Oklahoma City this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

\_\_\_\_\_  
**MAYOR**

**REVIEWED** for form and legality.

  
\_\_\_\_\_  
Deputy Municipal Counselor



**RECEIVED** by the Secretary of the Oklahoma County Election board this \_\_\_\_\_ day  
of \_\_\_\_\_, 2020.

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Doug Sanderson, Secretary  
Oklahoma County Election Board