

**TOWN OF OPHIR**



Box 683 • Ophir, CO 81426

**ORDINANCE NO. 2021-1 AN ORDINANCE AMENDING ORDINANCE 2017-1 IN PART TO ALLOW REDACTION OF VOTER IDENTIFICATION INFORMATION FROM ELECTION BALLOTS IN THE EVENT OF A PUBLIC RECORD REQUEST FOR PAPER BALLOTS THAT HAVE BEEN CAST, DESIGNATING THE TOWN CLERK AS THE DESIGNATED ELECTION OFFICIAL FOR ALL NON-COORDINATED MUNICIPAL ELECTIONS, PROVIDING THAT NOMINATIONS FOR ELECTIONS OF TOWN OFFICERS SHALL BE MADE AT THE GENERAL ASSEMBLY MEETING IN THE MONTH OF DECEMBER PRECEDING THE ANNUAL JANUARY ELECTION, ALLOWING THE TOWN CLERK TO CANCEL AN ELECTION AS TO ANY OFFICE THAT IS UNCONTESTED, AND DURING THE PERIOD OF TIME IN WHICH A STATE DISASTER EMERGENCY DUE TO PANDEMIC IS DECLARED: (1) PROVISIONALLY PROVIDING FOR A DELAY OF THE ANNUAL ELECTION UNTIL FEBRUARY 23, 2021 AND (2) PROVIDING FOR DEPOSIT OF PAPER BALLOTS IN A SECURE DROP BOX LOCATED AT TOWN HALL DURING THE WEEK BEFORE THE ELECTION; AND ALLOWING THE TOWN CLERK TO COUNT, CANVAS, AND TALLY THE BALLOTS CAST PRIOR TO THE COMPLETION OF THE ELECTION WITH THE ASSISTANCE OF A MONITOR DESIGNATED BY THE MAYOR, AND TO CERTIFY THE ELECTION RESULTS TO THE GENERAL ASSEMBLY AFTER 7:00 P.M. ON THE DAY OF THE ELECTION.**

**WHEREAS**, the Town of Ophir, Colorado (Town), is a home-rule town and political subdivision of the State of Colorado, duly organized and operating under the Constitution and laws of the State and the Ophir Town Charter; and

**WHEREAS**, Ordinance 2017-1 authorized voting by members of the General Assembly at meetings using paper ballots to be cast in person; and



**WHEREAS**, pursuant to Resolution 2020- 2, as a result of the COVID-19 pandemic and the state-wide disaster declaration, the Ophir General Assembly has begun to meet electronically via Zoom; and

**WHEREAS**, a Town election is scheduled for January 19, 2021 and is expected to occur while the statewide disaster declaration remains in effect; and

**WHEREAS**, it is difficult to maintain electoral voter privacy during electronic meetings; and

**WHEREAS**, it is necessary to authorize deposit of paper ballots for elections in a drop-box while the statewide disaster declaration remains in effect; and

**WHEREAS**, nominations for elected officials including the Mayor, Mayor Pro-tem, Treasurer and Town Clerk occurred at the December 15, 2020 General Assembly meeting, and no such office is currently contested; and

**WHEREAS**, pursuant to Article IV of the Ophir Home Rule Charter, the General Assembly may adopt election laws at variance with the Colorado Municipal Election Code; and

**WHEREAS**, the Ophir General Assembly desires to prescribe the time for nominations of persons for elected positions, designate an election official, prescribe a method of collection and counting of paper ballots, and enhance privacy protection for voters who cast paper ballots.

**NOW, THEREFOR, BE IT ORDAINED BY THE GENERAL ASSEMBLY OF THE TOWN, AS FOLLOWS:**

**Section 1.** Ordinance 2017-1 Amended. Section 4 of Ordinance 2017-1 is hereby amended to include the following underlined additional language:

Section 4. Privacy of Ballots. The Clerk and Mayor or Mayor Pro-Tem and any election monitor appointed by the Mayor as the case may be shall not divulge the ballot or vote cast by any individual General Assembly Member or elector who casts a vote, except pursuant to lawful process. "Lawful process" means a valid subpoena or court order, or a request for a paper ballot or ballots as public records under CORA. If a CORA request for a ballot or ballots is received, the custodian shall either deny the request on the basis of substantial injury to the public interest, redact the name of the elector, or apply to the District Court pursuant to C.R.S. 24-72-204 for a determination of whether release of the ballots is prohibited by CORA. The ballots shall be kept by the Clerk in a sealed envelope for six months



after the vote occurs, and the Clerk shall thereafter destroy the ballots unless a lawful process for release or production of the ballots is pending, in which case the ballots shall be maintained until the process in which the request for production or release is concluded.

**Section 2. Drop Box Authorized.** During the time a state-wide disaster has been declared, and the Ophir Town Hall has been closed to the public by public health order, on the date of an Ophir election and between 7 am and 7 pm, Ophir electors shall vote in such election by paper ballot. Electors may deposit their paper ballots into a securely-locked drop box which shall be affixed to the Town Hall. The drop-box shall be maintained in place beginning at 7:00 am on the sixth day prior to the date of the election. No privacy sleeve shall be required. Paper ballots shall be made available to voters via the Town of Ophir website, and also in a weather-proof box located next to the drop-box. No paper ballots may be cast after 7 pm on Election Day. To the extent possible paper ballots shall be treated in the same manner as mail-in ballots, except to the extent provided herein. The Town Clerk may begin to canvass the ballots beginning at 5 pm on the day of the election.

**Section 3. Town Clerk; Canvassing.** The Town Clerk shall be the designated election official for municipal elections that are not coordinated with San Miguel County. The Town Clerk shall count and tally all electoral votes in the presence of a monitor to be appointed by the Mayor, which monitor may include be the Mayor or Mayor Pro Tem. The monitor shall verify the Clerk's tally. In the case of disagreement between the Clerk and the monitor, the disagreement shall be immediately resolved by a committee of three electors appointed by the General Assembly, after the signatures on the ballots are covered up by the Clerk and the monitor. The Clerk shall certify the election results to the General Assembly as soon as possible after 7 pm on election night.

**Section 4. Nominations; Election Cancellation.** Nominations for the offices of Mayor, Mayor Pro Tem, Treasurer, and Town Clerk shall be made at the regular meeting of the General Assembly in December preceding the January election. In the event that an office receives only one nominee and is not contested, and no write-in candidates for that office are made on any paper ballot, the Clerk may declare the election for that office cancelled and the nominee/candidate shall be declared to assume the office at 7 pm on the date the election was scheduled.

**Section 5. 2021 Election Rescheduled.** The January 19, 2021 election is hereby rescheduled until February 23, 2021. If no further nominations are made at or before the General Assembly meeting scheduled for January 19, 2021, the February 23, 2021



election may thereupon be canceled by proclamation of the Town Clerk, and any write-in candidates on the ballots may be disregarded. The nominees shall be declared by the Town Clerk as having assumed their offices effective immediately following taking their oaths of office.

**Section 6. Effective Date; Continuing Effect; Repealer.** This Ordinance shall become effective immediately upon adoption in order to protect the public health, safety and welfare. Sections 1, 3 and 4 above are permanent and shall continue in effect after any state-wide disaster declaration has been terminated. All ordinances or sections of ordinances that conflict with any section of this ordinance are repealed to the extent of such conflict.

**Section 7. Publication.** After final adoption, a public notice shall be published which notice shall contain the number and title of this ordinance, a brief description of the ordinance, its effective date and notice that copies are available for inspection at the Town Hall office.


**Section 8. Severability.** If any one or more sections or parts of this Ordinance is adjudged unenforceable or invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, the intention being that the various provisions herein are severable.

**Introduced, Read and Referred to Public Hearing on First Reading by the General Assembly of the Town of Ophir on the 15th day of December, 2020.**

**Approved and Adopted on Second and Final Reading as Amended by the General Assembly of the Town of Ophir on the 19th day of January, 2021.**

By: 

Corinne Platt, Mayor

Attest: 

Sydney Roop, Town Clerk



Approved as to Form: Town Attorney