

AN ACT to provide for the government of the city of Medford in Jackson County, Oregon, and to repeal all charter provisions of the city enacted prior to the time that this charter was adopted, except Section 67-C thereof, heretofore adopted by the people, and Sections 98 and 101 of Chapter 292, Oregon Special Laws, 1905.

BE IT ENACTED by the people of the city of Medford, Jackson County, Oregon:

CHAPTER I NAME AND BOUNDARIES

Section 1. TITLE OF ENACTMENT. This enactment may be referred to as "THE MEDFORD CHARTER OF 1998."

Section 2. NAME OF CITY. The municipality of the city of Medford in Jackson County, Oregon, shall continue to be a municipal corporation with the name "CITY OF MEDFORD."

Section 3. BOUNDARIES. The city shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by voters, by the council, or by any other agency with legal power to modify them. The recorder shall maintain an official, accurate, and up-to-date description of the city boundaries in the recorder's office at the city hall.

CHAPTER II POWERS

Section 4. POWERS OF THE CITY. The city shall have all powers which the constitutions, statutes, and common law of the United States and of this state expressly or impliedly grant or allow municipalities, as fully as though this charter specifically enumerated each of those powers.

Section 5. CONSTRUCTION OF CHARTER. In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home-rule

provisions of the state constitution. As used in this charter, the term "whole council" means all of the present membership of the council at the time the vote is taken.

CHAPTER III FORM OF GOVERNMENT

Section 6. WHERE POWERS VESTED. Except as this charter provides otherwise, all powers of the city shall be vested in the council.

Section 7. COUNCIL. The council shall be composed of eight councilmembers. There shall be two councilmembers elected from each ward and the city shall be divided into four wards, the boundaries of said wards to be fixed by the city council by ordinance. The ward boundaries in existence on the effective date of this charter shall remain in existence until changed by ordinance.

Section 8. COUNCILMEMBERS. The councilmembers in office at the time this charter is adopted shall continue in office, each until the end of the member=s term of office as fixed by the charter of the city in effect at the time this charter is adopted. At each biennial general election after this charter takes effect, four councilmembers, one from each ward, shall be elected, each for a term of four years, so that the councilmembers in each ward are biennially elected for overlapping terms. To qualify for election and to hold office, a councilmember must be and remain a resident of the ward the member represents.

Section 9. MAYOR. The mayor elected in November, 1998, shall serve the two year term for which that person was elected. At the biennial general election in the year 2000, and every four years thereafter, a mayor shall be elected for a term of four years.

Section 10. MANAGER, JUDGE, AND OTHER OFFICERS. Additional officers of the city shall be a city manager and municipal judge, and such other officers as the council, or the board of water commissioners within its jurisdiction, deem necessary. The council may combine any two or more appointive offices, except the offices of city manager and municipal judge. In no such combination shall a municipal judge be subject to supervision by any other officer in the performance of judicial duties.

Section 11. SALARIES.

(1) Appointed Officials. The compensation for the services of the city manager and of the municipal judge shall be in the amount approved by the council. The compensation for services of all other appointed city officers and employees, except employees and officers of the water commission, shall be the amount fixed by the city manager, subject to budgetary limitations and other general limits set by ordinance of the city council.

(2) Elected Officials. The mayor and councilmembers shall not receive a salary for services rendered in that capacity except for reimbursement of actual expenses incurred in carrying out the duties thereof.

Section 12. QUALIFICATIONS OF ELECTIVE OFFICERS. No person shall be eligible for an elective office of the city unless at the time of election the person is a qualified elector within the meaning of the state constitution and has resided in the city during the six months immediately preceding the election. If the person is a resident of an area annexed less than six months prior to election, total continuous residency in the area annexed shall be counted towards the 6-months requirement. The council shall be final judge of the qualifications and election of its own members.

CHAPTER IV
COUNCIL

Section 13. MEETINGS. The council shall hold regular meetings at least twice each month in the city at a time and at a place which it designates. It shall, by ordinance enacted by two-thirds vote of the whole council, adopt rules for the government of its members and proceedings. The mayor or any two councilmembers may call a special meeting of the council. Notice of a special meeting shall be in such form and delivered or otherwise given in such manner as may be prescribed by the council's rules of government and state statute.

Section 14. QUORUM. A majority of members of the council shall constitute a quorum necessary for its business, but a smaller number may meet and compel the attendance of absent members in a manner provided by ordinance.

Section 15. PRESIDENT OF THE COUNCIL. At its first meeting of each year, the council shall elect a president and vice-president from its membership. In the mayor's absence from a council meeting, the president, or in the president's absence the vice-president, shall preside over it, but shall retain the right to vote on

each question. In any event, the president or vice-president may vote only once on each question before the council. Whenever the mayor is unable to perform the other functions of the office, the president, or in the president's inability the vice-president, shall act as mayor.

Section 16. VOTE REQUIRED. Except as this charter otherwise provides, the express concurrence of a majority, but not less than three, of those voting on the question shall be necessary and sufficient to decide any question before the council.

CHAPTER V POWERS AND DUTIES OF OFFICERS

Section 17. MAYOR. The mayor shall be the presiding officer of the city council but shall not vote upon any question except in case of a tie and the mayor shall then cast the deciding vote. Except as otherwise provided herein or by ordinance, the mayor shall appoint the members of committees or commissions of the city. Within ten days after the council adopts an ordinance the mayor may sign it and shall thereupon take effect, or, the mayor may return it unsigned to the city recorder with a signed statement of objection, and the ordinance shall be deemed vetoed. If the mayor neither signs the ordinance nor submits a veto to the city recorder within ten days, the ordinance shall take effect at the end of ten days without the mayor's signature. If the mayor vetoes an ordinance, the council may at its next regular meeting, or at a special meeting called for that purpose, reconsider the ordinance and, if two-thirds of the councilmembers present vote for such ordinance, it shall become immediately operative as though approved by the mayor.

Section 18. CITY MANAGER.

(1) Qualifications. The city manager shall be the administrative head of the government of the city. The manager shall be chosen by the council without regard to political considerations and solely with reference to executive and administrative qualifications. The manager need not be a resident of the city or of the state at the time of appointment, but promptly thereafter shall become, and during tenure remain, a resident of the city. Before taking office, the manager shall give a bond in such amount and with such surety as may be approved by the council. The premiums on such bond shall be paid by the city.

(2) Term. The manager shall be appointed for an indefinite term and may be removed at the pleasure of the council. Upon any vacancy occurring in the office of manager, the council at its next meeting shall adopt a resolution of its

intention to appoint another manager. Not later than one year after adopting the resolution, the council shall appoint a manager to fill the vacancy.

(3) Powers and Duties. The powers and duties of the manager shall be as follows:

(a) The manager shall devote his or her entire time to the discharge of official duties, attend all meetings of the council unless excused therefrom by the council or the mayor, keep the council advised at all times of the affairs and needs of the city, and make reports annually, or more frequently if requested by the council, of all the affairs and departments of the city.

(b) The manager shall see that all ordinances are enforced and that the provisions of all franchises, leases, contracts, permits, and privileges granted by the city are observed.

(c) The manager shall designate a city recorder, shall appoint and may remove appointive city officers and employees except as this charter otherwise provides, and shall have general supervision and control over them and their work with power to transfer an employee from one department to another. The manager shall supervise the departments to the end of obtaining the utmost efficiency in each of them. The manager shall have no control, however, over the council or over the judicial activities of the municipal judge.

(d) The manager shall be responsible for preparing and submitting to the budget committee the annual budget estimates and such reports as that body requests.

(e) Except as provided in Section 21 with respect to the jurisdiction of the Board of Water Commissioners, the city manager shall supervise the operation of all public utilities owned and operated by the city and shall have general supervision over all city property.

(4) Seats at Council Meetings. The manager and such other officers as the council designates shall be entitled to sit with the council but shall have no vote on questions before it. The manager may take part in all council discussions.

(5) Manager Pro Tem. If the office of city manager shall be vacant, the mayor shall be empowered to appoint a city manager pro tem who shall serve as city manager; provided that the city manager pro tem shall not have the power to appoint or dismiss officers or employees of the city except with the approval of the council. Provided further that the city manager pro tem shall hold office only until a city manager shall have been agreed upon and in no event to exceed a longer period of time than one year. Provided further that the city manager pro tem shall not be eligible for reappointment to the office of city manager pro tem.

(6) Interference in Administration and Elections. No member of the

council shall, in any manner, directly or indirectly, by suggestion or otherwise, attempt to coerce or influence the city manager in the making of any appointment or any removal or in the award of any contract within the manager's authority or in any disciplinary action against a city employee; nor shall any member of the council exact any promise relative to any appointment from any candidate for city manager or discuss directly or indirectly with any such candidate the matter of appointments to any city office or employments. Any violation of the foregoing provisions of this section shall work a forfeiture of the office of the offending member of the council who may be removed therefrom by the council or any court of competent jurisdiction. Nothing contained herein, however, shall be construed as prohibiting the council, while in open session, from discussion with or suggesting to the city manager anything pertaining to city affairs.

(7) Ineligible Persons. Neither the manager's spouse nor any person related to the manager or the manager's spouse by consanguinity or affinity within the third degree may hold any appointive office or employment with the city.

Section 19. WATER COMMISSION.

(1) Water Commission; Appointment; Terms; Officers. The board of water commissioners of the city of Medford, created in 1922, shall continue as presently constituted and shall consist of five members who are residents of the city and serve without compensation. Each commissioner is appointed by the mayor to serve for five years or until a successor is appointed and qualified, and, before assuming office, each must be confirmed by the city council and file with the city recorder a written oath to faithfully perform the duties of the office. Each commissioner in office on the effective date of this act shall remain in office until the expiration of the term for which appointed and each successor shall serve for five years or until another successor is appointed and qualified. Vacancies in the board shall be filled in like manner for the unexpired term. The city treasurer and city recorder shall be ex-officio treasurer and clerk of the board. As clerk of the board of water commissioners, the city recorder shall be the custodian of all official documents, papers and records thereof.

(2) Authority.

(a) The board of water commissioners, in the name of the city of Medford, shall have full power and authority to construct, extend, maintain and operate facilities and water systems within and without the city for the appropriation, diversion, treatment, transmission and distribution of water from Big Butte Creek, the Rogue River and all other sources; to protect and preserve the watersheds upon which such water sources rely; to distribute, furnish, sell and dispose of waters, and provide

water service, to water users and distributors, both public and private, within and without the city on such terms and conditions as the board of water commissioners determines to be in the best interests of the city; to enter into contracts for periods not to exceed twenty (20) years for the furnishing of water service, the sale of water or the operation or ownership of water systems, provided that in connection with the execution of any contract for the furnishing of such services or water outside the city, the board shall first find that the water or water service, or system's capacity, thus furnished, provided or sold, is surplus to the needs of the inhabitants of the city; to exercise all authority granted by ORS 225.030 in connection with the ownership, operation and maintenance of water works and water systems; to acquire by purchase, gift or eminent domain any and all real and personal property of every kind and character, including real property, water rights, rights-of-way and all other property rights, which it may find to be necessary or convenient for the carrying out of its powers hereunder, and to possess and to use the said property and property rights for said purposes and to dispose of such as it may from time to time find to be surplus to the needs of the city water system.

(b) Except as provided in Paragraph (3) and subject to the duties imposed in Paragraphs (4) and (5), the board of water commissioners shall have full control of the Water Fund and the power to disburse the same for the carrying out of all of the powers herein granted the board; to establish rates to be paid by water users for the use of city water service and facilities, and to collect and enforce the collection of such amounts in the name of the city of Medford; and to make all necessary rules and regulations for the sale, disposition and use of the water and water service of and from said city water system or systems.

(c) The board shall also have such other duties and powers, not inconsistent with this charter and the provisions of this chapter, as may from time to time be provided by ordinance of the city council, and authority is hereby granted to the city council to grant to said board of commissioners such additional powers as shall be necessary to enable the board of water commissioners to fully manage and operate the city water system.

(3) Water Fund. All monies received by the board of water commissioners from the sale of water service or from users of the services furnished from the water systems, or otherwise, shall be deposited in the treasury of the city to the credit of a fund to be known as the "Water Fund" and shall be kept separate and apart from other monies of the city, and money shall be drawn from said fund only upon demand previously approved by vote of three members of the board taken with "ayes" and "noes" spread on the minutes; provided that the city council shall have the power to draw upon the said water fund for the payment of interest and principal

amounts of general obligation bonds of the city issued for the construction, improvement or expansion of the water system as such interest and principal payments from time to time fall due.

(4) Rate Policy. It shall be the duty of the board to fix and maintain water service rates adequate to raise funds sufficient to pay operating expenses of the system, the principal and interest on all bonds issued for the improvement and expansion of said system as the same fall due, and such replacements and additions to the water system as the board finds to be required by the needs of the users thereof. The board shall hold a public hearing sixty (60) days prior to any water service rate change.

(5) Municipal Purposes. It shall be the duty of the board to furnish water to the city of Medford for fire protection and other like public purposes, and to receive into the water fund from the general fund of the city such amount as may be mutually agreed upon by the board and the city council for said services.

(6) Reports. It shall be the duty of the board to make full reports to the city council of the business transacted by it and of the condition of its funds once every three months, and it shall also make special reports to the city council on matters relating to the water system when called for by the city council.

Section 20. MUNICIPAL JUDGE.

(1) Municipal Judge; Qualifications; Appointment; Judges Pro Tem. The municipal judge shall be the judicial officer of the city. The judge shall be admitted to practice law by the Oregon Supreme Court. The judge shall be appointed by the mayor, with the approval of the council for a term of three years, subject to being removed by a two-thirds vote of the whole council for cause as defined by ordinance in effect prior to the occurrence of the grounds for cause. The judge shall hold within the city a court to be known as the Municipal Court for the city of Medford, Oregon. The city council may provide for the appointment of municipal judges pro tem to serve in the absence or inability of the municipal judge and for compensation thereof, and may appoint such judges pro tem to thus serve, but any such appointment shall be subject to the approval of the municipal judge.

(2) Jurisdiction and Limitations. The court shall be open for the transaction of judicial business at times specified by ordinance. All area within the city and, to the extent provided by state law, area outside the city shall be within the territorial jurisdiction of the court. The municipal judge shall exercise original and exclusive jurisdiction of all offenses defined and made punishable by ordinances of the city and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by ordinances of the city. The judge shall have authority to issue

process for arrest of any person accused of an offense against the ordinances of the city, to commit any such person to jail or admit him to bail, to provide for subpoenas, to compel witnesses to appear and testify in court on a hearing or trial of any cause before him, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments of the court and to punish witnesses and others for contempt of court.

When not governed by ordinances or this charter, all proceedings in the municipal court for the violation of a city ordinance shall be governed by general laws applicable to state courts. The city manager shall execute, or cause to be executed, all lawful orders of the municipal judge or court or of any court which succeeds to its jurisdiction. Except as otherwise provided for in a special, or commitment order, an accused shall be released from custody in accordance with the terms of a general order of the municipal court. The laws of arrest, warrants, searches, seizures, rights to bail, counsel, and due process for violation of an ordinance shall be the same as those applying within the state of Oregon to misdemeanors.

(3) Transfer of Jurisdiction. If by general statute, or by constitutional amendment, the state of Oregon makes available a state court for the enforcement of all or a part of the ordinances of the city of Medford, then notwithstanding the above provisions, the city council may in its discretion, by ordinance, transfer all or any part of the jurisdiction of the municipal court to such state court on such terms as the city council may deem to be in the best interests of the citizens of Medford, but any such ordinance may be subject to referendum on petition of legal voters or by resolution of the city council as provided by law.

Section 21. **RECORDER.** The recorder shall serve ex officio as clerk of the council, attend all its meetings unless excused therefrom by the council, keep accurate record of its proceedings, and sign all orders on the treasury. In the recorder's absence from a council meeting, the manager shall appoint a clerk of the council pro tem who, while acting in that capacity, shall have all the authority and duties of the recorder.

CHAPTER VI ELECTIONS

Section 22. ELECTIONS. The city recorder shall be the elections officer of the city. A person may be nominated in a manner prescribed by general ordinance to run for an elective office of the city. City elective offices shall be filled at regular city elections held at the same times and places as biennial general state elections in accordance with applicable state election laws. The council may provide for special elections in accordance with such laws. The result of all elections shall be entered into the record of the proceedings of the council. To the extent permitted by the Constitution and the Laws of the State of Oregon and the provisions of this charter, the council may enact ordinances governing the conduct of city elections.

Section 23. COMMENCEMENT OF TERMS OF OFFICE. The term of office of a person elected at a regular city election shall commence on the day of the first council meeting of the year immediately following the election.

Section 24. OATH OF OFFICE. Before entering upon the duties of an elective office, each officer shall take an oath or shall affirm that he or she will support the constitutions and laws of the United States and of Oregon and faithfully perform the duties of the office.

CHAPTER VII VACANCIES IN OFFICE

Section 25. WHAT CREATES VACANCY. An elective office becomes vacant: (1) Upon the incumbent=s (a) death, (b) adjudicated incompetence, or (c) recall from the office; or (2) Upon declaration by the council of a vacancy in case of the incumbent=s (a) failure, following election or appointment to the office, to qualify for the office within ten days after the time for his or her term of office to begin, (b) absence from the city for over 30 days without the council=s consent or from all meetings of the council within a 90 day period, (c) ceasing to reside in the ward from which elected, (d) ceasing to be a qualified elector under state law, (e) conviction of a public offense punishable by loss of liberty, or (f) resignation from the office.

Section 26. FILLING OF VACANCIES. Vacant elective offices in the city shall be filled by a majority vote of the whole council. The appointee=s term of office

shall begin immediately after appointment and shall continue throughout the unexpired term of the predecessor . However, if an appointed councilmember=s term begins at least thirty (30) days prior to the last day for filing nominating petitions for the general election which comes in the middle of the predecessor=s unexpired term, the appointee=s term shall terminate at the end of such election year, and the vacancy shall then be filled at the mid-term general election for the balance of the original term, so that the system of overlapping four-year terms in each ward shall be preserved.

CHAPTER VIII ORDINANCES

Section 27. ENACTING CLAUSE. The enacting clause of all ordinances hereafter enacted shall be, AThe city of Medford ordains as follows:≡.

Section 28. MODE OF ENACTMENT.

(1) Except as the second and third paragraphs of this section provide to the contrary, every ordinance of the council shall, before being put on its final passage, be read fully and distinctly in open council meeting on two different days.

(2) If such ordinance has been available for public inspection in the office of the city recorder not less than three days prior to the meeting, the ordinance, and any amendments thereto, may be enacted at a single meeting of the council unless there is more than one dissenting vote, upon being read first as in this chapter provided.

(3) Any of the readings may be by title only, if no councilmember present at the meeting requests to have the ordinance read in full, or if a complete copy of the ordinance is provided for each councilmember prior to the meeting.

CHAPTER IX PUBLIC IMPROVEMENTS

Section 29. IMPROVEMENTS.

(1) Procedure. The procedure for making, altering, vacating or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the state. Any such general procedural ordinances shall be passed by a vote of at least two-thirds of the whole council.

(2) New Paving Based on Initiating Petitions Only. Except as provided in subsection (3), the city council shall not have power to levy special assessments for paving hereafter to be made except upon petition signed by the owners, according to the records in the office of the county recorder, of property to an aggregate amount of a majority of the lineal frontage upon the improvement to be made and of the area within the limits of the assessment district to be created therefor.

(3) Arterial Streets. Subject to the limitations herein contained, the council may, without an initiating petition, levy special assessments for paving an arterial street, but such project may be defeated by a remonstrance signed by the beneficial and record owners of more than half of the lineal frontage of the property to be assessed, if the remonstrances are filed with the city recorder prior to the first public hearing on the proposed project; and, if so defeated, such project may not be proposed for another year on an assessment basis. Nothing herein shall be construed to compel any property owner to pay any portion of the cost of curbs or sidewalks abutting the property, where at the time of initiating the project, there are existing curbs or sidewalks in good condition abutting the property, constructed to the grade and specifications of the city. An arterial street for the purposes of this section is a street designated by the city council to be widened and improved for major traffic flow, when public funds are to be provided in an amount sufficient to provide for such additional capacity. Where an assessment project is initiated hereunder without petition, the notices of the first public hearing shall set forth the maximum amount or rate of special assessment to be levied and no special assessment in excess of said amount or rate made thereafter shall be validly levied for said project.

Section 30. SPECIAL ASSESSMENTS. The procedure for levying, collecting, and enforcing the payment of special assessment for public improvements or other services to be charged against real property shall be governed by general ordinance. Such ordinance shall be passed by a vote of at least two-thirds of the whole council.

CHAPTER X MISCELLANEOUS PROVISIONS

Section 31. BONDED INDEBTEDNESS. No general obligation bonded indebtedness shall be incurred without the consent of the voters, except as otherwise authorized by state law.

Section 32. CONTRACTS AND FRANCHISES. The city shall not be bound

by any deed or by any contract, unless the contract or deed has been authorized or ratified by ordinance of the council, or, where within the province of the board of water commissioners, by resolution of the board of water commissioners. Except leases of real property and the covenants and undertakings therein, no contract or franchise shall be entered into by the city binding it for a longer period than ten years; provided, that the city shall have authority to enter into contracts not exceeding twenty (20) years in duration with other municipal or quasi-municipal corporations for the construction, operation, or maintenance of public systems and facilities for domestic water supply or sewage collection or treatment or other public utilities to serve areas outside the city. The city shall not enter into any lease, as lessor or lessee, for a period longer than fifty years. No franchise shall grant any exclusive right or rights. This section shall not be construed to prevent the issuance of bonds of the city otherwise authorized for a longer period than ten years if, in the opinion of the council, such longer term will be for the best interests of the city, but no bonds of the city shall be issued for a longer period than thirty years.

Section 33. EXISTING ORDINANCES CONTINUED. All ordinances of the city consistent with this charter and in force when it takes effect shall remain in effect until amended or repealed.

Section 34. REPEAL OF PREVIOUSLY ENACTED PROVISIONS.

(1) All charter provisions of the city enacted prior to the time that this charter was adopted are repealed, except as provided in Subsections (2) and (3) of this Section.

(2) The following provisions enacted by the voters of Medford are not repealed: Section 67-C, adopted August 5, 1975, authorizing transient lodgings tax.

(3) The following provisions contained in the legislative charter of Chapter 292, Oregon Special Laws of 1905, are not repealed:

(a) Section 98, relating to the authority of the city regarding county roads within the city;

(b) Section 101, requiring publication of information before selling city-owned utilities.

Section 35. TIME EFFECT OF CHARTER. This charter shall take effect January 1, 1999.