

## A CHARTER

We, the people of Manzanita, Oregon, in order to avail ourselves of self-determination in municipal affairs to the fullest extent now or hereafter possible under the Constitutions and laws of the United States and the state of Oregon, through this Charter confer upon the City the following powers, subject it to the following restrictions, prescribe for it the following procedures and governmental structure, and amend all previous Charter provisions of the City.

### Chapter I NAMES AND BOUNDARIES

Section 1. Title of Charter. This Charter may be referred to as the 1992 Manzanita Charter.

Section 2. Name of City. The City of Manzanita, Oregon, continues under this Charter to be a municipal corporation with the name City of Manzanita.

Section 3. Boundaries. The City includes all territory within its boundaries as they now exist or hereafter are modified pursuant to state law. The custodian of the City's records shall keep an accurate, current description of the boundaries and make a copy of it available for public inspection in the City during regular City office hours.

### Chapter II POWERS

Section 4. Powers of the City. The City has all powers that the constitutions, statutes, and common law of the United States and of this state now or hereafter expressly or impliedly grant or allow the City, as fully as though this Charter specifically enumerated each of those powers.

Section 5. Construction of this Charter. In this Charter, no specification of a power is exclusive or restricts authority that the City would have if the power were not specified. The Charter shall be liberally construed, so that the City may exercise fully all its powers possible under this Charter and under United States and Oregon law. All powers are continuing unless a specific grant of power clearly indicates the contrary.

Section 6. Distribution of Powers. Except as this Charter prescribes otherwise and as the Oregon Constitution reserves municipal legislative power to the voters of the City, all powers of the City are vested in the Council

### Chapter III FORM OF GOVERNMENT

Section 7. Council. The Council consists of a Mayor and four Councilors nominated and elected from the City at large or, in case of one or more vacancies in the Council, the Council members whose offices are not vacant.

Section 8. Councilors. The term of office of a Councilor in office when this Charter is adopted is the term of office for which the Councilor has been elected before adoption of the Charter. At each general election after the adoption, two Councilors shall be elected each for a four-year term.

Section 9. Mayor. The term of office of the Mayor in office when this Charter is adopted is the term of office for which the Mayor has been elected before adoption of the Charter. At each subsequent general election, a Mayor shall be elected for a two-year term.

Section 10. Other Officers. Additional officers of the City shall be a City Manager and City Recorder and such officers as the City Council may deem necessary. Each such officer shall be appointed and may be removed by a majority of the City Council for just cause. The Council may combine two or more appointive City offices and may designate any appointive officer to supervise any other appointive officer excepting the Municipal Judge in the exercise of his judicial functions.

Section 11. Salaries. The City Council shall fix compensation to be paid to each City officer and employee.

Section 12. Qualifications of Officers. No person shall be eligible to fill an elective office of the City unless at the time of his election he is a qualified voter within the meaning of the state constitution and has resided within the City for a period of one year preceding the election.

- (1) No person may be a candidate at a single election for more than one elective City office.
- (2) An elective officer may hold a City position that is substantially volunteer in nature. Whether the position is so may be decided by the municipal court or in some other manner, whichever the Council prescribes.
- (3) Except as subsection (2) of this section provides to the contrary, the Council is the final judge of the election and qualifications of its members.
- (4) The qualifications of appointive officers of the City are whatever the Council prescribes or authorizes.

#### Chapter IV CITY COUNCIL

Section 13. Meetings. The City Council shall hold a regular meeting at least once a month at a time and place in the City where designated, and shall adopt rules for the government of its members including parliamentary procedures based on Robert's Rules of Orders. Meetings of the Council other than regular meetings may be held in accordance with the procedures prescribed by state law and general ordinance.

Section 14. Quorum. A majority of the members of the Council shall constitute a quorum to transact business, but a smaller number may meet and compel the attendance of absent members in a manner provided by ordinance.

Section 15. Record of Proceedings. The Council shall cause a record of its proceedings to be kept in the manner provided by state law.

Section 16. Meetings to be Public. With the exception of executive sessions, all deliberations and proceedings of the City Council shall be public. Executive sessions shall be called for and conducted in accordance with State Law.

Section 17. Mayor's Functions at Council Meetings. The Mayor shall be chairman of the Council and shall preside over its deliberations. He shall vote as a Councilor. He shall have authority to preserve order, enforce the rules of the Council and determine the order of business under the rules of the Council.

Section 18. President of the Council. At its first meeting after this Charter takes effect, and at the first meeting of each odd numbered year thereafter, the Council shall by ballot elect a President from its membership. In the absence of the Mayor from a Council meeting, the President shall preside over it. Whenever the Mayor is unable for any reason to perform the functions of his office, the President of the Council shall act as Mayor.

Section 19. Vote Required. Except as this Charter otherwise provides, the concurrence of a majority of the members of the City Council shall be necessary to decide any question before the Council.

## Chapter V POWERS AND DUTIES OF OFFICERS

Section 20. Mayor. The Mayor shall appoint a committee provided for under the rules of the Council. He shall sign all approved records of proceedings of the Council and counter-sign all checks approved by the Council. He shall have no veto power and shall sign all ordinances passed by the Council within three days after their passage.

Section 21. Municipal Judge. The Municipal Judge shall be the judicial officer of the City. He shall hold within the City a court known as the Municipal Court of the City of Manzanita, Tillamook County, Oregon. The Municipal Court shall be open for the transaction of judicial business on every day except non-judicial days. All of the area within the City limits shall be within the territorial jurisdiction of the court. The Municipal Judge shall exercise original and exclusive jurisdiction of all crimes and offenses defined and made punishable by ordinance of the City. He shall have authority to issue process for the arrest of any person accused of an offense against the ordinances of the City, to commit any accused person to jail or admit him to bail pending trial, to issue subpoenas, to compel obedience to such subpoenas, to compel witnesses to appear and testify in court on any trial before him, to issue any process

necessary to carry into effect the judgement of the court and to punish witnesses and others for contempt of court.

When not governed by ordinance or this Charter, proceedings in the Municipal Court for the violation of a City ordinance shall be governed by the applicable general laws of the state governing Justices of the Peace. Trials in the Municipal Court for violation of City ordinances shall be had without juries.

Section 22. City Manager/Recorder.

- (1) The City Manager is the administrative head of the City government.
- (2) A majority of the Council shall appoint and may remove the Manager. The appointment shall be without regard to political considerations and solely on the basis of administrative qualifications.
- (3) The Manager need not reside in the City or the state when appointed.
- (4) Upon accepting the appointment, the Manager shall secure a bond for the City in an amount and with a surety approved by the Council. The City shall pay the bond premium.
- (5) The Manager shall be appointed for a definite or an indefinite term and may be removed by the Council at its pleasure. Within six consecutive months after a vacancy occurs in the office, the Council shall fill the vacancy by appointment.
- (6) The Manager shall:
  - (a) Attend all Council meetings unless excused by the Council or Mayor;
  - (b) Keep the Council advised of the affairs and needs of the City;
  - (c) See that the provisions of all ordinances are administered to the satisfaction of the Council;
  - (d) See that all terms of franchises, leases, contracts, permits and privileges granted by the City are fulfilled;
  - (e) Appoint, discipline and remove personnel, except appointees of the Mayor or Council;
  - (f) Organize and reorganize the departmental structure of City government with Council consent;
  - (g) Serve as City Budget Officer and prepare and transmit to the Council an annual proposed City budget;
  - (h) Supervise City contracts;
  - (i) Supervise operation of all City-owned public utilities and property; and
  - (j) Perform other duties as the Council prescribes consistently with this Charter.

- (7) The Manager may not control:
  - (a) The Council;
  - (b) The municipal judge in the judge's judicial functions; or
  - (c) Except as the Council authorizes, appointive personnel of the City whom the Manager does not appoint.
- (8) The Manager and other personnel whom the Council designates may sit with the Council but may not vote on questions before it. The Manager may take part in all Council discussions.
- (9) When the Manager is absent from the City or disabled from acting as Manager, or when the office of Manager becomes vacant, the Council may appoint a Manager pro tem, who has the powers and duties of Manager, except that the Manager pro tem may appoint or remove personnel only with approval of the Council. No person may be Manager pro tem more than six consecutive months.
- (10) Except in Council meeting, no Council member may directly or indirectly, by suggestion or otherwise, attempt to influence the Manager or a candidate for the office of Manager in the appointment, discipline, or removal of personnel or in decisions regarding City property or contracts. A violator of this prohibition may be removed from office by a court of competent jurisdiction. In Council meeting, members of the Council may discuss with, or suggest to, the Manager anything pertinent to City affairs.

Section 23. City Recorder. The City Recorder shall serve ex-officio as clerk of the Council, attend all its meetings, unless excused therefrom by the Council, keep an accurate record of its proceedings in a book provided for that purpose and sign all checks authorized by the Council. In his absence from a Council meeting, the Council shall appoint a clerk of the Council pro tem who, while acting in the capacity, shall have all authority and duties of the Recorder.

## Chapter VI ELECTIONS

Section 24. Regular Elections. Regular City elections shall be held at the same times and places as biennial general state elections, in accordance with the applicable state election laws. All elected positions shall be non partisan.

Section 25. Notice of Regular Elections. The Recorder, pursuant to directions from the Council, shall give at least sixty days' notice of each regular City election by posting notice thereof in a conspicuous place at City Hall and in at least three other public places within the City. The notice shall state the officers to be elected, the ballot title of each measure to be voted upon, and the time and place of the election.

Section 26. Special Elections. Special elections shall conform to state law applicable to the election. The Recorder shall give at least thirty day's notice of each special election in the manner provided by the action of the Council ordering the election.

Section 27. Regulation of Elections. The general laws of the state shall apply to the conduct of all city elections, recounts of the returns therefrom, and contests thereof.

Section 28. Canvass of Returns. In all elections held in conjunction with state and county elections, the state laws governing the filing of returns by the county by the county clerk shall apply. The results of all elections shall be made a matter of record in the journal of the proceedings of the Council, which shall contain a statement of the total number of votes cast at each election, the votes cast for each person and for and against each proposition, the name of each person elected to office, the office to which he has been elected, and a reference to each measure enacted or approved. The Recorder shall make and sign a certificate of election to each newly elected councilor and deliver the certificate to him within one day after the canvass.

A certificate so made and delivered shall be prima facie evidence of the truth of the statements contained in it, except that the Council shall be the final judge of the qualifications and election of its own members, subject, however, to review by any court of competent jurisdiction.

Section 29. Commencement of Terms of Office. The term of office of a person elected to an office at a regular City election shall commence at the first Council meeting of the year immediately following the year of his election.

Section 30. Oath of Office. Before entering upon the duties of his office, each officer shall take an oath that he will support the constitution and laws of the United States of America and of the State of Oregon, and that he will faithfully perform the duties of his office.

Section 31. Nominations. Any qualified elector may be nominated to be a candidate for election to the Council, if he will have resided in the City for one year immediately preceding the time that his name is submitted to the voters. The name of such elector shall be printed upon the ballot whenever a petition and a written acceptance of nomination, both in substantially such form as the Council prescribed, have been filed in his behalf with the Recorder. Such petition shall be signed by not fewer than twenty electors. No elector shall sign more than one such petition pertaining to an individual candidate for office or single item to be voted on, and if he signs two or more of them relating to individual candidate or single item to be voted on, his signature shall be valid only on the first of them filed.

The signatures to a nomination petition need not all be appended to one paper, but to each separate paper of the petition shall be attached an affidavit of the circular thereof, indicating the number of signers of the paper and stating that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, identified by its street and number or other description sufficient to identify it. Nomination petitions shall be in the form and filed in the manner and within the time prescribed by state law. The Recorder shall make a record of

the exact time when each petition is filed and shall take and preserve the name and address of the person with whom it is filed.

Within five days after the filing, the Recorder shall notify the candidate and the person who filed the petition whether or not it is found to be signed by the required number of qualified electors. If it is found insufficient, the Recorder shall return it immediately to the person who filed it, with a statement certifying wherein the petition is insufficient.

Within the regular time allowed for the filing of nomination petitions, such petition may be amended and filed again as a new petition, or a different petition may be filed for the same candidate. Any eligible person placed in nomination as hereinbefore provided shall have his name printed on the ballot for the election, if, within five days after notification to him by the Recorder of the nomination, an acceptance nomination is filed with the Recorder on his behalf. The nomination petition for a successful candidate for election to the Council shall be preserved in the office of the Recorder until the expiration of the term of office for which the candidate is elected.

## Chapter VII VACANCIES IN OFFICE

Section 32. What Creates Vacancy. An office shall be deemed vacant upon the incumbent's death, incompetence, conviction of a felony, resignation, removal of residency from the City, ceasing to possess the qualifications for office or absent from the City for thirty days without the consent of the Council in the case of Mayor or Councilor, or without the consent of the Mayor in the case of an officer appointed by the Mayor; or upon the failure of the person elected or appointed to an office to qualify therefor at or prior to the first meeting in January following his election; and in case of the Mayor or Councilor, upon his absence from meetings of the Council for sixty days without the consent of the Council. Excused absences beyond 60 days duration shall be reviewed by the Council.

Section 33. Filling of Vacancies. Vacancies in elective offices of the City shall be filled by appointment by a majority of the entire membership of the Council. Notice of permanent position vacancies shall be posted for a period of thirty days in advance of appointment at City Hall and three other public places, and application forms for said position shall be made available at City Hall. All applicants shall be invited to attend a regular Council meeting at which time they will be interviewed by the Council. At the conclusion of the Council's interview, the Council shall conduct a ballot to fill the vacant elective position. The appointee's term of office shall begin immediately upon his appointment and shall continue through the unexpired term of his predecessor.

## Chapter VIII ORDINANCES

Section 34. Enacting Clause. The enacting clause of all ordinances hereinafter enacted by the Council shall be, "The City of Manzanita Does Ordain as Follows":

Section 35. Adoption by Council.

- (1) Except as subsection (2) of this section allows, an ordinance shall be fully and distinctly read in open Council meeting on two different days before being adopted by the Council.
- (2) A reading of an ordinance may be by title only if:
  - (a) No Council member or citizen present at the reading requests that the ordinance be read in full or
  - (b) At least one week before the first reading:
    - (i) A copy of the ordinance is provided for each Council member,
    - (ii) Three copies of the ordinance are available for public inspection in the office of the City Recorder, and
    - (iii) Notice of their availability is given by written notice posted at City Hall and three other public places in the City.
- (3) An ordinance read by title only has no legal effect if it differs substantially from its terms as it was filed prior to the reading unless each section so differing is read fully and distinctly in open Council meeting before the Council adopts the ordinance.
- (4) Upon the adopting of the ordinance, the Ayes and Nays of the Council members shall be entered in the record of Council proceedings.
- (5) After adopting of an ordinance, the City Recorder shall endorse it with its date of adoption and the endorser's name and title of office.

Section 36. When Ordinances Take Effect. An ordinance enacted by the Council shall take effect on the thirty-first day after its enactment. When the Council deems it advisable, however, an ordinance may provide a different time for it to take effect and, in case of an emergency, it may take effect immediately.

Chapter IX  
PUBLIC IMPROVEMENTS

Section 37. Acquisitions and Disposition of Property. The City shall have the power to acquire by purchase, gift, devise or condemnation any property either within or without its corporate boundaries for any municipal purpose, for the purpose of protecting, preserving, or facilitating any improvement, for the purpose of bringing about such development of property along or in the vicinity of an improvement as will make the development harmonious with and adjusted to the improvement, or for any combination of such purposes.



The City shall also have power to acquire by condemnation, property in excess of that needed for the actual improvement and to sell or lease the excess with such building and use restrictions and conditions as will tend to make its development harmonious with and adjusted to adjacent public improvements. The City shall have power to provide for the payment of any part or all of the cost of land or other property acquired for public use, of the cost of construction, reconstructing, repairing, operating, or maintaining any structure or work in the nature of public facility or improvement, including a public utility, and the cost of any other public work or service by levying and collecting assessments upon the property specially benefited thereby.

Section 38. Improvements. The procedure for making street, sidewalk, sewer, and other public improvements and for vacating, altering, abandoning streets and other public improvements shall be governed by ordinance or the applicable general laws of the state in the absence of ordinance.

Section 39. Special Assessments. The procedure for fixing, levying, and collecting special assessments against real property for public improvements or other public services shall be governed by general ordinance.

Section 40. Condemnation. Any necessity of taking property for the City by condemnation shall be determined by the Council and declared by a resolution of the Council describing the property and stating the uses to which it is to be devoted.

#### Chapter X OPERATION AND MAINTENANCE OF WATER SYSTEM

Section 41. Water Fund Restrictions. All revenues received by the City from operations of the municipal water supply system shall be placed into a special fund to be known as the "Water Fund", and such fund shall be used only for the following purposes:

- (a) For the payment of the costs of operation and maintenance of the City water supply system.
- (b) For the payment of the interest on outstanding warrants or bonds issued hereunder;
- (c) For the payment of principal of such warrants or bonds;
- (d) For the payment of costs of future additions, betterments and extensions of the City water supply system.

#### Chapter XI TORTS

Chapter 42. In no event shall the City be liable for damages in excess of the limitations established by state law.

Chapter XII  
MISCELLANEOUS PROVISIONS

Section 43. Debt. The City's indebtedness may not exceed debt limits imposed by state law. A City officer or employee who creates or officially approves indebtedness in excess of this limitation is jointly and severally liable for the excess. A Charter amendment is not required to authorize City indebtedness.

Section 44. Continuation of Ordinances. Insofar as consistent with this Charter, and until amended or repealed, all ordinances in force when the Charter takes effect retain the effect they have at that time.

Section 45. Repeal. All Charter provisions adopted before this Charter takes effect are hereby repealed.

Section 46. Severability. The terms of this Charter are severable. If a part of the Charter is held invalid, that invalidity does not affect another part of the Charter, except as the logical relation between the two parts requires.

Section 47. Time of Effect. This charter takes effect 30 days after voter approval.