

CITY OF PORT ORFORD CHARTER*

* Editor's Note: Ord. 276 adopted the City Charter on September 9, 1975.

Chapter I

NAME AND BOUNDARIES

Section 1. Title of Enactment. This enactment may be referred to as the City of Port Orford Charter of 1976.

Section 2. Name of City. The municipality of Curry County, Oregon, shall continue to be a municipal corporation with the name "City of Port Orford."

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 keep in the Administrator's office at the city hall at least two copies of this charter in each of which the recorder shall maintain an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection at any time during regular office hours of 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.

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 six councilmembers elected from the city at large.

Section 8. Councilmembers. The term of office of three councilmembers whose term would have expired under the old charter, shall expire at the first council meeting after December 31, 1976. The remaining three councilmembers' terms expiring the first council meeting after December 31, 1978, with their replacements being elected at the November 1978 election. At each subsequent biennial general election, three councilmembers shall be elected each for a term of four years. The councilmembers elected in the November elections shall be installed at the first council meeting after December 31, following their election, including the members elected in November 1976.

Section 9. Mayor. At every fourth November election, a mayor shall be elected for a

term of four years, first election in November of 1976.

Section 10. Other Officers. Additional officers of the city shall be a municipal judge, a recorder, and such other officers as the council deems necessary. Each of these officers shall be appointed and may be removed by the mayor with the consent of the council. The council may combine any two or more appointive city offices. The council may designate any appointive officer to supervise any other appointive officer except the municipal judge in the exercise of his judicial functions.

Section 11. Salaries. The compensation for the services of each city officer and employee shall be the amount fixed by the council.

Section 12. Qualifications of Officers. No person shall be eligible for an elective office of the city unless at the time of his election he 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. The council shall be the final judge of the qualifications and election of its own members.

Chapter IV

COUNCIL

Section 13. Meetings. The council shall hold a regular meeting at least once each month in the city at a time and at a place which it designates. It shall adopt rules for the government of its members and proceedings. The mayor upon his own motion may, or at the request of three members of the council shall, by giving notice thereof to all members of the council then in the city, call a special meeting of the council for a time not earlier than three nor later than forty-eight hours after

the notice is given. Special meetings of the council may also be held at any time by the common consent of all the members of the council present within the city.

Section 14. Quorum. A majority of members of the council shall constitute a quorum for its 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 the proceedings to be kept.

Section 16. Proceedings to be Public. No action by the council shall have legal effect unless the motion for the action and the vote by which it is disposed of take place at proceedings open to the public.

Section 17. Mayor's Duties at Council Meetings. The Mayor is ex officio President of the Council and presides over its deliberations when in session. He is not entitled to a vote, except in the case of a tie vote of the members of the Council present. He shall have the authority to preserve order, enforce the rules of the Council, and determine the order of business, subject to the rules of the Council.

Section 18. President of the Council. At its first meeting after this charter takes effect and thereafter at its first meeting of each odd-numbered year, the council by ballot shall elect a president from its membership. In the mayor's absence from a council meeting, the president shall preside over it. Whenever the mayor is unable to perform the functions of his office, the president shall act as mayor and retain the power as councilmember.

Section 19. Vote Required. The majority of the members of the council present shall be sufficient to determine any question or matter before the council, except that in the case of a tie vote of the councilmembers present, or

of all the members of the council, it shall require a vote of four votes including the vote of the Mayor.

Section 20. Punishment of Council Members. The Council may punish any member in such manner as it may determine by ordinance or resolution for disorderly or improper conduct at any meeting, or for refusing and neglecting to attend any meeting without sufficient excuse therefore, and may by two-thirds vote expel any member for disorderly or improper conduct from a meeting. Nothing herein contained shall, however, entitle the council to expel a member from the council for more than one meeting, provided that nothing herein shall limit the council's powers under Section 13 of this Article.

Chapter V

POWERS AND DUTIES OF OFFICERS

Section 21. Mayor. The Mayor shall appoint the committees provided by the rules of the council. He shall sign all records of proceedings 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. After the council approves a bond of a city officer or a bond for a license, contract, or proposal, the mayor shall endorse the bond.

Section 22. 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 for the City of Port Orford, Curry County, Oregon. The court shall be open for the transaction of judicial business at times specified by the council. All area within 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. 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 such person to jail or admit him to bail pending trial, to issue subpoenas, to compel witnesses to appear and testify in court on the 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 the applicable general laws of the state governing justices of the peace and justice courts. The council may enter into contracts with other courts to provide the services of municipal judge.

Section 23. Recorder. The 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, and sign all orders on the treasury. In the recorder's absence from a council meeting, the mayor 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 24. Regular Elections. Regular city elections shall be held at the same times and places as biennial general state elections, in accordance with applicable state election laws.

Section 25. Notice of Regular Elections. The city clerk, pursuant to directions from the council, shall give at least ten days' notice of each regular city election by posting notice thereof at a conspicuous place in the city hall and in one public place in each voting precinct of 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. The council shall provide the time, manner, and means for holding any special election. The city clerk shall give at least ten days' notice of each special election in the manner provided by the action of the council ordering the election.

Section 27. Regulation of Elections. Except as this charter provides otherwise and as the council provides otherwise by ordinances relating to 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 clerk shall apply. In each special city election the returns therefrom shall be filed with the city clerk on or before noon of the day following, and not later than five days after the election the council shall meet and canvass the returns. The results of all elections shall be entered in the

record of the proceedings of the council. The entry shall state the total number of votes cast at the 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. Immediately after the canvass is completed, the city clerk shall make and sign a certificate of election of each person elected 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.

Section 29. Tie Votes. In the event of a tie vote for candidates for an elective office, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the council.

Section 30. Commencement of Terms of Office. The term of office of a person elected at a regular city election shall commence the first council meeting after December 31 following the election.

Section 31. Oath of Office. Every officer of this city shall, before entering upon the duties of his office, take and file with the city clerk an oath of office to the following effect:

STATE OF OREGON)
County of Curry) ss.
City of Port Orford)

I, _____, do solemnly swear (or affirm) that I will support the constitution and the laws of the United States and of the State of Oregon, and the Charter, bylaws, ordinances, and proclamations of the City of Port Orford and perform the duties of _____ in honesty and justice to the best of my ability, and that, so far as possible, I will protect that office and this City from

any illegal, unethical or dishonest practices, so help me God, (and this I promise under the penalties for perjury.)

/s/ _____

Section 32. Nominations. A qualified elector who has resided in the city during the 6 months immediately preceding an election may be nominated for an elective city office to be filled at the election. The nomination shall be by a petition that specifies the office sought and shall be in a form prescribed by the council. The petition shall be signed by not fewer than 25 electors with not less than 5 electors from any precinct. 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 circulator 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. Opposite each signature shall be stated the signer's place of residence, identified by its street and number or other sufficient designation. All nomination papers comprising a petition shall be assembled and filed with the city clerk as one instrument not earlier than 90 nor later than 62 days before the election. The city clerk shall make a record of the exact time at which each petition is filed and shall take and preserve the name and address of the person by whom it is filed. If the petition is not signed by the required number of qualified electors, the city clerk shall notify the candidate and the person who filed the petition within five days after the filing. If the petition is insufficient in any other particular, the city clerk shall return it immediately to the person

who filed it, certifying in writing wherein the petition is insufficient. The deficient petition may be amended and filed again as a new petition, or a substitute petition for the same candidate may be filed, within the regular time for filing nomination petitions. The city clerk shall notify an eligible person of his nomination, and that person shall file with the city clerk written acceptance of nomination, in such form as the council may require, within five days of notification of nomination. Upon receipt of the acceptance of nomination, the city clerk shall cause the nominee's name to be printed on the ballots. The petition of nomination for a successful candidate at an election shall be preserved in the office of the city clerk until the term of office for which the candidate is elected expires.

Chapter VII

VACANCIES IN OFFICE

Section 33. What Creates Vacancy. An office shall be deemed vacant upon the incumbent's death; adjudicated incompetence; conviction of a felony, other offense pertaining to his office, or unlawful destruction of public records; resignation; recall from office; or ceasing to possess the qualifications for the office; upon the failure of the person elected or appointed to the office to qualify therefor within ten days after the time for his term of office to commence; or in the case of a mayor or councilmember, upon his absence from the city for 30 days without the consent of the council or upon his absence from meetings of the council for 60 days without like consent, and upon a declaration by the council of the vacancy.

Section 34. Filling of Vacancies. Vacant elective offices in the city shall be filled by appointment. A majority vote of the full council shall be required to validate the appointment. The appointee's term of office shall begin immediately upon his appointment and shall continue until the next general election at which time an election shall be held for the unexpired term of his predecessor. During the temporary disability of any officer or during his absence temporarily from the city for any cause, his office may be filled pro tem in the manner provided for filling vacancies in office permanently.

Chapter VIII

ORDINANCES

Section 35. Enacting Clause. The enacting clause of all ordinances hereafter enacted shall be, "Be it ordained by the common council of the City of Port Orford;"

Section 36. 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 upon its final passage, be read fully and distinctly in open council meeting on two different days.

(2) Except as the third paragraph of this section provides to the contrary, an ordinance may be enacted at a single meeting of the council by a majority vote of all council members present, upon being read first in full and then by title.

(3) Any of the readings may be by title only if no council member present at the meeting requests to have the ordinance read in full or if a copy of the ordinance is provided for each council member and three copies are

provided for public inspection in the office of the city clerk not later than one week before the first reading of the ordinance and if notice of their availability is given forthwith upon the filing, by written notice posted at the city hall and two other public places in the city. An ordinance enacted after being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading, unless each section incorporating such difference is read fully and distinctly in open council meeting as finally amended prior to being approved by the council.

(4) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and entered in the record of proceedings.

(5) Upon the enactment of an ordinance the recorder shall sign it with the date of its passage and his name and title of office, and within three days thereafter the mayor shall sign it with the date of his signature, his name and title of his office.

Section 37. When Ordinances Take Effect. An ordinance enacted by the council shall take effect on the thirtieth day after its enactment. When the council deems it advisable, however, an ordinance may provide a later time for it to take effect, and in case of an emergency, it may take effect immediately.

Chapter IX

PUBLIC IMPROVEMENTS

Section 38. 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 shall be devoted.

Section 39. Improvements. 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. Action on any proposed public improvement, except a sidewalk or except an improvement unanimously declared by the council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the land to be specially assessed therefor. In this section "owner" shall mean the record holder of legal title or, where land is being purchased under a land sale contract recorded or verified to the recorder in writing by the record holder of legal title to the land, the purchaser shall be deemed the "owner."

Section 40. Special Assessments. The procedure for levying, collecting, and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance.

Section 41. Bids. A contract in excess of \$10,000 for a public improvement to be made by a private contractor shall be let to the lowest responsible bidder for the contract and shall be done in accordance with plans and specifications approved by the council. The council will have the right to reject all bids.

Chapter X

MISCELLANEOUS PROVISIONS

Section 42. Debt Limit. Except by consent of the voters, the city's voluntary floating indebtedness shall not exceed \$4,000. The bonded indebtedness, shall not exceed the maximum allowed by state law and shall be incurred by vote of the people. For purposes

of calculating the limitation, however, the legally authorized debt of the city in existence at the time this charter takes effect shall not be considered. All city officials and employees who create or officially approve any indebtedness in excess of this limitation shall be jointly and severally liable for the excess.

Section 43. Torts. In no event shall the city be liable in damages for an injury to person, a damage to property, or a death, caused by a defect or a dangerous condition in a public thoroughfare, site, or facility, unless the city has had actual notice prior to the injury, damage or death that the defect or condition existed and has had a reasonable time thereafter in which to repair or remove it. In no case shall more than \$500 be recovered as damages for an injury, damage or death resulting from such a defect or dangerous place. No action shall be maintained against the city for damages growing out of such injury, damage or death unless the claimant first gives written notice to the council within 30 days after the injury, damage or death is sustained, stating specifically the time when, the place where, and the circumstances under which it was sustained, and that he will claim damages therefor of the city in an amount which he specifies. But in no event shall the action be started until 30 days have elapsed after the presentation of this notice to the council.

Section 44. 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 45. Repeal of Previously Enacted Provisions. All charter provisions of the city enacted prior to the time that this charter takes effect are hereby repealed.

Section 46. Time of Effect of Charter. This charter shall take effect November 3, 1976.

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