

CHARTER FOR THE CITY OF PHILOMATH

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PREAMBLE

We, the people of the city of Philomath, Benton County, Oregon, in order to avail ourselves of self-determination in municipal affairs to the fullest extent now or hereafter granted or allowed by the constitutions and laws of the United States and the state of Oregon, by 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 repeal all charter provisions of the city enacted prior to the time this charter takes effect.

Be it enacted by the people of the city of Philomath, Benton County, Oregon:

Chapter I

NAME AND BOUNDARIES

Section 1.1 Title of enactment.

This enactment may be referred to as the Philomath Charter of 1987.

Section 1.2 Name of city.

The municipality of Philomath, Benton County, Oregon, shall continue to be a municipal corporation with the name "City of Philomath."

Section 1.3 Boundaries.

The city shall include all territory encompassed by its boundaries as they now exist or hereafter are modified pursuant to law. The city recorder shall keep an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection during regular office hours.

Chapter II

POWERS

Section 2.1 Powers of the city.

The city shall have all powers that the constitutions, statutes, and common law of the United States and of this state expressly or implied grant or allow municipalities, as fully as though this charter specifically enumerated each of those powers.

Section 2.2 Construction of powers.

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 3.1 Form of government.

The city of Philomath operates under the council-manager form of government.

Section 3.2 Where powers vested.

Except as this charter provides otherwise, all powers of the city are vested in the council.

Section 3.3 Council.

The council shall be composed of a mayor and six councilors elected from the city at large.

Section 3.4 Councilors.

Councilors in office at the time this charter is adopted shall continue in office until the end of the terms for which they were elected. Councilors elected at the 1986 biennial general election shall serve a term of four years. At the first biennial general election after this charter becomes effective, three councilors shall be elected, each for a term of two years. At each subsequent biennial general election, six councilors shall be elected, each for a term of two years.

Section 3.5 Mayor.

At each biennial general election a mayor shall be elected for a term of two years.

Section 3.6 Other officers.

(1) The city manager is an officer of the city who shall be appointed by the council for an indefinite term, to hold office at the pleasure of the council and who may be removed at any time by a

two-thirds vote of all the incumbent members of the council.

(2) The city recorder is also an appointed officer of the city and shall be appointed or removed from office as provided in section 5.3(6) of this charter.

(3) Other officers of the city who may be appointed by the council, if the council chooses to fill the positions, are the municipal judge and the city attorney, each appointed by the council for an indefinite term, to hold office at the pleasure of the council and who may be removed at any time by two-thirds vote of all the incumbent members of the council.

(4) The council may create or eliminate appointive offices as it deems necessary, except for the positions of city recorder and city manager, and may appoint qualified officers thereto. The council may combine any two or more appointive offices, except the offices of the city manager and the municipal judge, or city attorney and municipal judge. The municipal judge shall not be subject in judicial functions to supervision by any other officer.

Section 3.7 Salaries.

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

Section 3.8 Qualifications of officers.

(1) To be eligible for an elective city office, a person at the time of election must be a qualified elector within the meaning of the state constitution and have resided in the city during the six months immediately preceding the election. For purposes of this subsection, city means all areas included in the corporate limits as of the date of the election.

(2) No appointive officer or employee may serve on the council.

(3) No person may be a candidate for the offices of mayor and council at the same election, nor shall any person serve a continuous period of the council, including service as mayor, of more than ten years plus the portion of a partial term to which he or she may have been originally appointed.

(4) Except as otherwise provided in this section, the council is the final judge of the qualifications and election of its own members.

Chapter IV

COUNCIL

Section 4.1 Meetings.

The council shall hold regular meetings at least once a month in the city at a time and place that it designates. Meetings of the council other than regular meetings may be held in accordance with procedures prescribed by state law and general ordinance. The council shall adopt rules for the government of its members and proceedings.

Section 4.2 Quorum.

A majority of the incumbent 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 4.3 Record of proceedings.

The council shall cause a record of its proceedings to be kept in the manner provided by state law.

Section 4.4 Meetings to be public.

All deliberations and proceedings of the council shall be public except as otherwise authorized by state law.

Section 4.5 Mayor's functions at council meetings.

The mayor shall preside over council deliberations and shall have a vote on all questions before the council. The mayor shall preserve order, enforce the rules of the council, and determine the order of business under the rules of the council.

Section 4.6 President of the council.

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 the office, the president shall act as mayor.

Section 4.7 Vote required.

Except as this charter otherwise provides, the concurrence of a majority of the members of the council voting when a quorum of the council is

present at a council meeting shall be necessary to decide any questions before the council.

Section 4.8 Interference in administration.

A member of the council shall not attempt to coerce the manager or any other city employee in carrying out the duties of the office; or attempt to influence the manager or any other city employee in making an appointment or in removal of an officer or employee or in purchasing equipment, services or supplies; or attempt to exact a promise relative to an appointment from any candidate for manager. The council may, however, in session, discuss with or suggest to the manager anything pertinent to city affairs or the interests of the city. A violation of this subsection may occasion the censure or removal from office of the offending member of the council, by the council or a court of competent jurisdiction.

Chapter V

POWERS AND DUTIES OF OFFICERS

Section 5.1 Mayor.

The mayor shall appoint the committees provided by the rules of the council; preside and enforce the rules of council at all meetings; sign all records of proceedings approved by the council; shall have no veto power; sign all ordinances passed by the council after their passage; represent the city at ceremonial functions, unless council directs otherwise; and, after the council approves a bond of a city officer or a bond for a license, contract or proposal, shall endorse the bond.

Section 5.2 Municipal court.

(1) Jurisdiction. A judge appointed by the council may hold within the city a court known as the municipal court of the city of Philomath, Benton County, Oregon. The court shall be open for the transaction of judicial business at times specified by the council. All areas within the city and, as provided by law, territory outside the city, is within the territorial jurisdiction of the court. All proceedings of the municipal court are governed by the general laws of the state for justices of the peace and justice courts except as this charter or city ordinance prescribe to the contrary. The municipal court has original jurisdiction over all offenses that city ordi-

nances define and make punishable and over all actions to recover or enforce forfeitures or penalties that city ordinances define or authorize. The municipal court shall have concurrent jurisdiction over state traffic or misdemeanor offenses when permitted by state law.

(2) The municipal judge shall have authority to:

(a) Render judgments and impose sanctions for enforcement of judgments on persons and property within the jurisdiction of the court;

(b) Issue process for the arrest of any person accused of an offense against the city or within the jurisdiction of municipal court;

(c) Commit any such person to jail or admit the person to bail pending trial;

(d) Issue search warrants;

(e) Issue subpoenas and compel obedience to such subpoenas;

(f) Compel witnesses to appear and testify in court on the trial of any cause before the court;

(g) Issue any process necessary to carry into effect the judgments of the Court;

(h) Punish witnesses and others for contempt of court;

(i) Perform other judicial or quasi-judicial functions as the council prescribes by general ordinance.

(3) The council may appoint a municipal judge and such pro tem judges as it considers necessary to hold office at the pleasure of the council. Notwithstanding this section and Section 3.6 of this charter, the council may provide for the transfer of powers and duties of the municipal court to the appropriate court of the state of Oregon.

Section 5.3 City manager.

(1) Qualifications. The city manager shall be the administrative head of the government of the city. The manager shall be chosen by a majority vote of all members of the council without regard to political considerations and solely with reference to executive and administrative qualifications. The city manager need not be a resident of the city or of the state at the time of appointment, but within six months thereafter shall become, and during his or her tenure remain, a resident of the city, unless this requirement is modified by the city council.

(2) Bond. Before taking office, the manager shall give a bond in an amount and with such surety

as is approved by the council. The premiums on the bond shall be paid by the city.

(3) Term. The manager shall be appointed for an indefinite term and may be removed at the pleasure of the council, as specified in section 3.6(1) of this charter. Upon vacancy occurring in the office of manager, the council shall adopt, at its next meeting, a resolution of its intention to appoint another manager. No appointment shall be made until at least four weeks have elapsed after adoption of the resolution. Within four weeks after adoption of the resolution, the city shall commence advertisement of the vacancy. Not later than six months after adopting the resolution, the council shall appoint a manager to fill such vacancy.

(4) Powers and Duties. The manager shall:

(a) Implement policy as determined by the council, keeping the council advised of the affairs and needs of the city;

(b) Attend all meetings of the council unless excused therefrom by the council or the mayor;

(c) Make reports as requested by the council about the affairs and departments of the city;

(d) See that all ordinances are enforced and that the provisions of all franchises, leases, contracts, permits and privileges granted by the city are observed;

(e) Appoint and remove all employees except as otherwise provided by this charter;

(f) Generally supervise and control appointive officers and employees in their work except as otherwise provided by this charter;

(g) Regulate, coordinate, systematize, adjust and, as necessary, reorganize the various city departments;

(h) Supervise all purchasing;

(i) Supervise preparation of the annual budget;

(j) Appoint such advisory boards as the manager may deem desirable to advise the manager, but the members of such boards shall receive no compensation as such board members;

(k) Execute all contracts;

(l) Supervise the operation of all city-owned public utilities and city-owned property;

(m) Devote full time to the office of city manager;

(n) Perform such other duties as the council directs.

(5) The manager shall have no control over the council, the city attorney, or the judicial activities of the municipal judge.

(6) The manager may only appoint or dismiss a department head with the approval of a majority of the incumbent members of the council. The council shall not appoint or dismiss a department head without the manager's recommendation, unless the position of city manager is vacant.

(7) Seats at Council Meetings. The manager is entitled to sit with the council and take part in all council discussions, but shall have no vote on questions before the council.

(8) Manager Pro Tem. If the office of city manager becomes vacant or if the city manager is absent from the city or disabled from acting as manager, the council may designate a city manager pro tem. The manager pro tem shall perform the duties of the city manager but may appoint or dismiss a department head only with the approval of three-fourths of the incumbent members of the council. The term of office of the city manager pro tem ends when the city manager returns to the city or takes office.

Section 5.4 City recorder.

The city recorder, or designee, shall serve ex officio as clerk of the council, attend all its meetings unless excused therefrom, and keep an accurate record of its proceedings.

Section 5.5 City attorney.

A city attorney may be appointed by the city council, serve for an indefinite term, and may be removed at the pleasure of the council. The city attorney shall be the chief legal officer of the city and shall perform whatever duties are required by the council.

Chapter VI

ELECTIONS

Section 6.1 Regulation of elections generally.

Except as this charter provides otherwise and as the council provides otherwise by ordinance, the general laws of the state apply to city elections.

Section 6.2 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 6.3 Commencement of terms of office.

The term of office of a person elected to a city office at a regular city election commences at the first council meeting of the year immediately following the election.

Section 6.4 Oath of office.

Before commencing the duties of office, each elective officer shall take an oath or shall affirm faithful performance of the duties of the office and support for the constitutions and laws of the United States and the state of Oregon.

Section 6.5 Nominations.

A person possessing the qualifications required by the charter may be nominated for an elective city office. The council, by general ordinance, shall prescribe the method and form of nomination.

Chapter VII**VACANCIES IN OFFICE****Section 7.1 What creates vacancy.**

(1) An office becomes vacant upon the incumbent's:

- (a) Death;
- (b) Adjudicated incompetence;
- (c) Conviction of a crime pertaining to the office or any felony;
- (d) Unlawful destruction of public records;
- (e) Resignation;
- (f) Recall or removal from office;
- (g) Ceasing to possess the qualifications for office;
- (h) Failure, following election or appointment to the office, to qualify for the office within ten days after the time for the term of office to commence.

(2) In the case of a mayor or councilor, an office also becomes vacant on the incumbent's termination of residency in the city, absence from the city for 30 days without consent of the council, or

absence from the meetings of the council occurring within a 60-day period without like consent, and on a declaration by the council of the vacancy.

Section 7.2 Filling vacancies.

Vacant elective city offices shall be filled by appointment by a majority vote of the remaining members of the council. The appointee's term of office begins immediately on appointment and continues throughout the unexpired term of the predecessor. During the temporary disability of an officer or during an officer's temporary absence from the city for any cause, the office may be filled pro tem in the manner provided for filling vacancies in office.

Chapter VIII**ORDINANCES****Section 8.1 Enacting clause.**

The enacting clause of all ordinances hereafter enacted shall be, "The city of Philomath ordains as follows:".

Section 8.2 Mode of enactment.

(1) Except as subsections (2) and (3) provide to the contrary, an ordinance shall, before enactment, be read fully and distinctly in open council meetings on two different days.

(2) Except as subsection (3) allows both readings by title only, an ordinance may be enacted at a single council meeting by unanimous vote of all councilors present after being read first in full and then by title.

(3) Any of the readings may be by title only:

- (a) If no council member present at the meeting requests to have the ordinance read in full; or
- (b) 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 recorder not later than one week before the first reading of the ordinance and notice of the availability of the copies is given by written notice posted at the City Hall and two other public places in the city or by advertisement in a newspaper of general circulation in the city. An ordinance enacted after being read by title alone shall have no legal effect if it differs substantially from its terms as filed prior to the reading, unless each section

incorporating such a difference is read fully and distinctly in open council meeting as finally amended prior to being approved by the council.

(4) An ordinance may be amended at the time of enactment if the ordinance as amended deals with the same general subject.

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

(6) On the enactment of an ordinance, the city recorder shall endorse it with the date of enactment and the attester's name and title of office. Thereafter, the mayor shall sign and date the ordinance over the title of "Mayor."

Section 8.3 When ordinances take effect.

An ordinance takes effect on the thirtieth day after its enactment. However, when the council considers it advisable, an ordinance may provide a later effective date or, in an emergency, an ordinance may take effect immediately on enactment by the affirmative vote of four or more members of the council.

Chapter IX

PUBLIC IMPROVEMENTS

Section 9.1 Condemnation.

A 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 9.2 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 applicable state laws. Actions on a proposed public improvement, except a sidewalk or an improvement unanimously declared by the incumbent members of the council to be needed at once because of an emergency, shall be suspended for six months on a remonstrance by the owners of two-thirds of the land to be specially assessed for the improvement. In this section, "owner" means the record holder of legal title or, if land is being purchased under a land sale contract recorded or

verified in writing by the record holder of legal title to the land, the purchaser.

Section 9.3 Special assessments.

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

Section 9.4 Public contracts.

Public contracts shall be in accordance with state law and ordinances and resolutions adopted by the city council and at the discretion of the local contract review board for the city of Philomath in accordance with the rules and regulations adopted by the local contract review board.

Chapter X

MISCELLANEOUS PROVISIONS

Section 10.1 Debt limit.

The city's indebtedness may not exceed the limits imposed on a city by state law. All city officials and employees who create or officially approve indebtedness in excess of this limitation shall be jointly and severally liable for the excess.

Section 10.2 Existing ordinances continued.

All ordinances of the city consistent with this charter and in force when it takes effect remain in effect until amended or repealed.

Section 10.3 Repeal of previously enacted provisions.

All charter provisions of the city enacted prior to the time this charter takes effect are repealed. This repeal shall not affect the validity of an outstanding bond issued by the city or impair the obligation of the city under the bond or the rights of the holders of the bond, and it shall not affect bond issuing power that has not been exhausted.

Section 10.4 Time of effect of charter.

This charter shall take effect January 1, 1987.

Chapter XI**CHARTER AMENDMENTS****Section 11.1 Annexations by majority vote.**

Unless mandated by state law, annexations to the city of Philomath may only be approved by a prior majority vote among the electorate. (Adopted at a special election conducted May 16, 1995.)

Section 11.2 Services to property outside corporate city limits.

The city shall furnish no services or enter into any agreement or contract to furnish such services to property outside the corporate limits of the city unless approved by a prior majority vote among the electorate. (Adopted at a special election conducted May 21, 1996.)

