

CHARTER OF THE CITY OF COOS BAY

CHAPTER I

NAME AND BOUNDARIES

Section 1.1 Title of Enactment . This enactment may be referred to as the Charter of the City of Coos Bay.

Section 1.2 Name Of City . The name of the city hereby incorporated shall be "CITY OF COOS BAY".

Section 1.3 Boundaries . The City shall include all territory encompassed by the boundaries of the consolidating cities at the time this charter becomes effective and as hereafter legally modified. The Recorder shall keep an accurate and current description of the boundaries at the City Hall for public inspection.

CHAPTER II

POWERS

Section 2.1 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 2.2 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 was 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 the laws and to the municipal home rule provisions of the constitution of the State.

Section 2.3 Where Powers Vested . Except as this charter provides otherwise, all powers of the City are vested in the Council.

Section 2.4 Utilities . The City, acting by and through its Council, is authorized and empowered to acquire, construct, purchase, own, lease, operate and maintain, within, without, or partly within and without the corporate limits of the City, public utilities and other public utilities and other public enterprises and properties which may be deemed by the Council to be in the public interest, including, but not limited to, airport, dock, wharf, sewer, and water system facilities; and the Council may, by ordinance, authorize the issuance and sale of self-liquidating revenue bonds and self-liquidating notes or contracts payable only from the pledged revenues of public utilities, enterprises and properties for the acquisition, purchase, construction, reconstruction, improvement, extension or repair of any such utility, enterprise or property or any part thereof;

provided that such obligations, and any part thereof; provided that such obligations, and any part thereof, shall not be payable from taxes or general fund revenues and shall not be deemed general obligations of the City unless specifically authorized at election of the legal voters of the City, nor shall such self-liquidating obligations be debts of the City within the meaning of any constitutional, statutory or charter limitations.

Section 2.5 Community Promotion . The City Council may authorize the expenditure of public funds for promoting or advertising the City of Coos Bay or the community of which said City is a part.

CHAPTER III FORM OF GOVERNMENT

Section 3.1 Council . The Council shall be composed of a mayor and six council members elected from the City at large.

Section 3.2 City Manager and Municipal Judge . The council shall appoint a city manager and may appoint a municipal judge, and both of such officers may be removed by the council without cause. Upon any vacancy occurring in the office of city manager, the council shall appoint a city manager pro tem who shall serve until a city manager is appointed and assumes office.

Section 3.3 Other Officers and Employees. The city manager shall appoint a recorder, attorney, chief of public safety, engineer, and such other officers as may be provided for by ordinance; and the city manager may remove any such officer at any time without cause. The city manager shall appoint and employ such other employees as the Council deems necessary and the city manager may remove any such employee without cause, subject to such limitations and restrictions as the Council may impose by ordinance or contract.

Section 3.4 Consolidation of Offices . The Council may, by resolution, consolidate any two or more appointive offices.

Section 3.5 Salaries . The compensation for the services of city officers and employees shall be whatever amount the Council approves.

Section 3.6 Qualifications . A person who at the time of election or appointment is a qualified voter within the meaning of the state constitution and has resided within the City one year immediately preceding the election or appointment to fill a vacancy shall be eligible to fill an elective office of the City. No elective office holder of the City may be employed by the City in a position that is not substantially volunteer in nature. Before the names of candidates for elective office are placed on the ballot and before the appointment of an elective officer to fill a vacancy, the candidate for elective office shall present proof of qualifications to the municipal judge

whose decision shall be a final determination of both fact and law, but if there is no municipal judge then such determination shall be made by the city attorney.

CHAPTER IV COUNCIL

Section 4.1 Meetings . The Council shall hold a regular meeting at least twice each month at a time and at a place in the City which it designates and may adopt rules for the government of its members and proceedings. The mayor, manager, or three members of the Council may, by giving notice to all members of the Council then in the City, call a special meeting of the Council.

Section 4.2 Quorum . A majority of the members of the Council shall constitute a quorum for it to do business, but a smaller number at a regular or special meeting may recess or adjourn the meeting to another time or may meet and compel the attendance of absent members in a manner provided by ordinance.

Section 4.3 Journal . The Council shall cause a journal of its proceedings to be kept. A record of the vote of each council member on every ordinance shall be entered in the journal. Upon request of any of its members a record of the vote of each council member on any other question before the Council shall be entered in the journal.

Section 4.4 Mayor's Function at Council Meetings . The Mayor shall be chairman of the Council and preside over its deliberations and shall have a vote on any question before the Council. The Mayor 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 4.5 President of the Council . At its first meeting after this charter takes effect and thereafter at its first meeting after each general biennial election 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, on account of absence, illness or other cause, to perform the functions of the office, the president of the Council shall act as Mayor.

Section 4.6 Vote Required . Except as this charter otherwise provides, the concurrence of a majority of the members of the Council present at a council meeting shall be necessary to decide any question before the Council.

CHAPTER V POWERS AND DUTIES OF OFFICERS

Section 5.1 Mayor . The Mayor shall sign all approved records of proceedings of the Council. The Mayor shall have no veto power and shall sign such other documents as the Council may designate.

Section 5.2 City Manager . Except as otherwise provided in this charter, the city manager shall be the administrative head of the city government, shall have supervision and control over all departments, utilities, enterprises and properties of the city, appoint and remove employees except as this charter otherwise provides, shall have the duty to supervise the enforcement and execution of all ordinances, contracts, leases, franchises and licenses, shall act as purchasing agent for the city, shall prepare and submit annual budget estimates and act as budget officer for the city, and shall perform such other duties as the council may direct or as may be required by law.

Section 5.3 Municipal Judge . The municipal judge shall be the judicial officer of the city and shall preside over a court to be known as "The Municipal Court of the City of Coos Bay, Oregon". Such court shall have territorial jurisdiction which includes all areas within the corporate limits of the city and such areas outside those corporate limits as may be permitted by law. When not governed by general ordinances of the city, all proceedings in the municipal court for violation of a city ordinance shall be governed by the applicable general laws of the State of Oregon relating to court procedures, powers, and administration.

Section 5.4 Recorder . The recorder shall be the fiscal officer of the city, shall serve ex-officio as clerk of the council, attend all its meetings and keep an accurate record of its proceedings in a book provided for that purpose, and shall have such other duties as may be designated by the Council.

CHAPTER VI ELECTIONS

Section 6.1 Election Procedures . Except as otherwise provided in this charter or by ordinance, the general laws of the State of Oregon shall apply to the conduct of city elections, recounts the returns therefrom, and contests thereof. The recorder shall be the chief elections officer of the city unless the council provides otherwise. 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 6.2 Regular Elections . Unless otherwise provided by general ordinances of the City, regular city elections shall be held at the same times and places as biennial general state elections.

Section 6.3 Special Elections . The Council may provide for calling and hold special elections by resolution or ordinance.

Section 6.4 Election Returns . The results of all elections shall be made a matter of record in the journal of 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 the person elected to each office, and a reference to each measure enacted or approved. Immediately after receipt of the results of a city election the city elections officer shall make and sign a certificate of election of each person elected and deliver the certificate to such person. A certificate so made and delivered shall be prima facie evidence of the truth of the statements contained in it.

Section 6.5 Term of Office . The Mayor shall be elected for a term of two years at each biennial general election. At each biennial general election three council members shall be elected, each for a term of four years, and there also shall be elected the number of council members necessary to fill vacancies for an unexpired term of two years. The Mayor or Council members elected or appointed shall serve their respective terms of office until the first regular council meeting following the biennial general election at which their successors shall have been elected; provided, the Mayor and Council members shall hold office until their successors shall have taken their oaths of office.

Section 6.6 Oath of Office . Before entering upon the duties of the office, each officer shall take an oath or affirmation to support the constitutions and laws of the United States and the State of Oregon and to faithfully perform the duties of the office.

Section 6.7 Nominations . A person possessing the qualifications required by this charter may be nominated for an elective city office. The Council, by general ordinance, may prescribe the method and form of nomination.

Section 6.8 What Creates Vacancy . An elective office shall be deemed vacant by declaration of the Council upon the incumbent's death, adjudicated incompetence, convictions of felony, resignation, recall from office, ceasing to possess the qualifications necessary for the office, the failure of the person elected or appointed to take the oath of office within three weeks after the time for the term of office to commence, which shall be the first regular council meeting following election or appointment, or absence from meetings of the council for 30 days without the consent of the Council.

Section 6.9 Filling Vacancies . Vacancies in elective offices of the City shall be filled by appointment by a majority of the entire membership of the Council holding office at the time of the appointment. The appointee's term of office shall begin upon taking the oath of office following appointment and shall continue until a successor has been elected and qualified following the next regular city election. The successor to a council member appointed during the first two years of the term shall serve for the unexpired term of two years.

Section 6.10 Temporary Appointments . During the temporary disability or absence of any officer, the office may be filled by temporary appointment in the same manner as provided for filling vacancies permanently.

CHAPTER VII ORDINANCES

Section 7.1 Enacting Clause . The enacting clause of all ordinances hereafter enacted by the council shall be "The City of Coos Bay ordains as follows."

Section 7.2 Enactment. Ordinances may be enacted by the City Council using one of the following:

(1) Be read once fully and distinctly in open Council meeting and receive the affirmative vote of the majority of the Council; or

(2) the reading may be by title only (a) if no Council members present at the meeting request to have the ordinance read in full and (b) if a copy of the ordinance is provided for each Council member not later than one week before the meeting at which the ordinance is to be voted upon and three copies are made available in the city recorder's office for public inspection not later than one week prior to the meeting at which the ordinance is to be voted upon. The ordinance enacted after being read by title alone may have no legal effect if it differs from its terms as it was thus filed prior to such 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.

Section 7.3 When Ordinances Take Effect . Ordinances making appropriations and annual tax levy, ordinances relative to local improvements and assessments therefore, ordinances called special elections, other special ordinances, and emergency ordinances shall take effect immediately upon their passage by the council. All other ordinances passed by the Council shall take effect on the thirtieth day after enactment unless a later date is fixed therein, in which event they shall take effect at such later date.

CHAPTER VIII CONDEMNATION AND PUBLIC IMPROVEMENTS

Section 8.1 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.

Section 8.2 Public Improvements . Street, sewer, sidewalk, and such other public improvements as the Council deems necessary may be initiated by motion of the Council. A written remonstrance of the owners of property upon which sixty-seven percent of the estimated cost of the improvement is proposed to be levied shall defeat the motion initiating the improvement, and no further action upon the improvement shall be taken for six months. For the purposes of this chapter "owner" shall mean the record holder of legal title; provided, that if the affected property is being sold under a land sale contract, the holder of equitable title under such contract shall be deemed the "owner".

Section 8.3 Improvement Procedure . The procedure for initiating public improvements, for providing for notice to property owners, for a hearing upon the proposed improvements, for the filing of written remonstrances, for the carrying out and construction of public improvements, for determining the amount of the special assessments, their apportionment to various parcels of property, and the property upon which they are to be levied, for the levy of assessments, for the creating and enforcing of assessment liens, and for taking any other action relating to the improvements and assessments shall be governed by general ordinances of the City, or if no such ordinances have been enacted, then by the applicable laws of the State of Oregon relating to special assessments.

Section 8.4 Special Charges . If special charges, fees, costs, or damages are made a lien or special assessment upon real property by charter or ordinance, then the collection of such charge, fee, cost or damage shall be made in the manner provided by general ordinance or law for the collection of special assessments.

Section 8.5 Sidewalks . The City may provide by ordinance that the owners of property adjoining any street shall have a duty to construct, repair or maintain free hazards and obstructions any sidewalk adjacent to their property, and shall be liable for any injuries or damages resulting from failure to comply with such duty; and where the city has established such duties and liabilities, it may limit or restrict the liability of the city, its officers and employees, for damages or injuries to persons or property.

CHAPTER IX SPECIAL PROVISIONS

Section 9.1 Qualifying for First Election . For the first election for offices in the consolidated city, the qualifications of candidates, as described in Section 3.6 of Chapter III of this charter, shall be determined by the municipal judges or city attorneys of the consolidated cities.

Section 9.2 Initial Terms of Office . At the first election under this charter the three candidates for the City Council receiving the largest number of votes shall serve until the 1986 biennial general election, and the three candidates for the council receiving the next largest number of votes and the mayor shall serve until the 1984 biennial general election.

Section 9.3 Pending Proceedings . All improvement and assessment proceedings, all condemnation and dangerous building proceedings, all vacations, zoning and land use proceedings, all proceedings involving building and other permits, and all proceedings for violation of ordinances, which are pending in any of the cities which are consolidated at the time that this charter shall go into effect, may be completed under the provisions of the various charters, ordinances, laws and other regulations under which such proceedings were commenced.

Section 9.4 Regulations . All valid and subsisting ordinances, together with any rules, regulations, rates and fees established thereunder, of each of the cities to be consolidated under this charter, which grant franchises, establish use zones and comprehensive plan provisions with implementing ordinances, which establish regulations, sign signals or zones for the control of traffic or parking, which establish or regulate utility services, which create reserve funds, and which are not in conflict with the provisions of this charter, shall remain in full force and effect until amended or repealed.

Section 9.5 Existing Rights, Authorizations and Obligations . The enactment of this charter shall not impair any valid and existing right vested in, or liability incurred by, the cities which have become consolidated. All authorized bonds of the consolidated cities, whether or not issued, and all pledges of taxes, revenues or reserve funds for their payment, shall remain in full force and effect until such bonds are retired.

Section 9.6 Ordinances and Regulations . In the event that provisions of existing ordinances and regulations of the consolidating cities shall be inconsistent, conflicting or cumulative, then the following rules shall apply:

- (1) Where the same act, conduct or activity is both prohibited and allowed or licensed, it shall be deemed to be prohibited.
- (2) Where an act, conduct or omission constitutes both a criminal and a civil offense, it shall be deemed to be a civil and not a criminal offense.

(3) Where the same property, activity or use is taxed by more than one ordinance of the consolidating cities, then the ordinance imposing the lesser tax or fee shall be the only ordinance which shall be effective as to such use, activity or property, except that sewer user fees shall be those of the former city of Coos Bay until modified.

Section 9.7 Offices, Boards, and Commissions . In those instances where an ordinance of one of the three existing cities will remain in full force and effect until amended or repealed, and such ordinance provides for the creation of, or appointment to, any office, board or commission, then all such positions shall be deemed vacant when this charter goes into effect, and the vacancy shall be filled according to the provisions of such ordinance, or according to the provisions of this charter if the provision of the ordinance relating to the appointment is inconsistent herewith.

Section 9.8 Water Works

(1) This section shall become effective only if the City of North Bend continues to exist and the cities of Coos Bay and Eastside are consolidated.

(2) The operation, maintenance, improvement and extension of the system of water works owned jointly with the city of North Bend, Oregon, at the time this charter takes effect shall continue to be entirely under the control of a board known as the COOS BAY-NORTH BEND WATER BOARD. Said water board shall have entire control of all water funds and the disbursements thereof, and shall make annual reports to the council of each city showing the true condition of the water system and its financial condition, together with a statement of its yearly operation. Said board shall have authority to make all contracts for repairs, improvements and extensions to such water system but only to the extent of the water funds available for said purposes. Said board shall have authority to employ all help necessary in its judgment in the operation of such water system and to fix the salary and wages of all employees.

(3) The water board shall consist of four members who shall serve without pay, two of whom shall be residents of the city of Coos Bay and two of whom shall be residents of the city of North Bend. The two members from the city of Coos Bay shall be appointed by the mayor and confirmed by a majority of the council each for a term of four years.

(4) The income derived from the operation of a water system owned and operated as herein provided shall be disposed of in the following manner:

(a) The payment of costs and expenses of operation, maintenance and repairs to said water system.

(b) The payment to each city of the amounts necessary to pay the principal of and interest on any bonds issued to pay for the acquisition of such water system, and for improvements and extensions thereto.

(c) In making of improvements and extensions to said system of water works.

Section 9.8 (A) Water Works

(1) This section shall become effective if the cities of Coos Bay and North Bend are consolidated into one city.

(2) The operation, maintenance, improvement and extension of the system of water works previously owned jointly by the cities of Coos Bay and North Bend shall be under the control of a board known as the COOS BAY WATER BOARD. Said water board shall have entire control of all water funds and the disbursement thereof, and it shall prepare and file with the city budget officer a proposed annual budget on or before February 1st for the fiscal year beginning the following July 1st. Said board shall have authority to make all contracts for repairs, improvements and extensions to such water system but only to the extent of the water funds available for said purpose. Said board shall have authority to employ all help necessary in its judgment in the operation of such water system and to fix the salary and wages of all employees.

(3) The water board shall consist of five members who shall serve without pay, shall be residents of the city, and shall be appointed by the Mayor and confirmed by a majority of the Council each for a term of four years commencing January 1st. Of the initial board, two members shall be appointed for terms ending December 31, 1984 and three members shall be appointed for terms ending December 31, 1986.

(4) The income derived from the operation of the water system shall be disposed of in the following manner:

(a) The payment of costs and expenses of operation, maintenance and repair to said water system.

(b) The payment of principal and interest on any bonds, notes or contracts authorized and issued by the city council for the repair, improvement or extension of the water system.

(c) The payment for improvements and extensions to said system of water works.

Section 9.9 Tax Base . The initial tax base for the consolidated city shall be the sum of the tax bases of the consolidating cities on the effective date of incorporation.

Section 9.10 Effective Date of Incorporation . The effective date of the incorporation of the consolidated City of Coos Bay shall be the one-hundredth day following the first election of officers. [consolidation of Coos Bay and Eastside December 29, 1983]

Section 9.11 Funds for Police Officers and Firefighters . From the general fund budget, the city council shall appropriate to the Public Safety Department in each fiscal year the funds necessary to provide at least 1.85 sworn police officers per 1,000 population, and 1.2 firefighters per 1,000 population in the City of Coos Bay. [Section 9.11 added by election held May 17, 1988]

Section 9.12 Sales of Bonds and Warrants . All selling of bonds or warrants shall be submitted to the people for approval by a majority of votes cast. [Section 9.12 added by election held November 5, 1996]

Section 9.13. Funding Building Inspection Program . The City Council may, by non-emergency ordinance, establish a building inspection program for the City of Coos Bay. In each fiscal year, the building inspection program shall be entirely funded by user fees; fees so charged shall be exclusively dedicated to funding the building inspection program, including capital costs, and shall be based on the actual cost necessary to administer and continue the program without contribution of any property tax revenue. [Section 9.13 added by election held May 20, 1997]

Section 9.14. Streets and Roads Trust Fund .

(a) There is hereby created a special fund, to be designated by the City of Coos Bay Jurisdictional Exchange Trust, which shall be initially funded by the proceeds of the Year 2000 City of Coos Bay - State of Oregon Exchange of Jurisdiction Agreement, whereby the State of Oregon relinquished jurisdiction over certain portions of the State of Oregon Highway System located within the corporate limits of the City of Coos Bay to the City. The proceeds from the Agreement shall be held in public trust for the people of the City of Coos Bay and be used exclusively for the construction, reconstruction, improvement, repair, maintenance, operation of those twenty-three (23) lane miles exchanged pursuant to the Agreement, and to repay any debt incurred or issued for these purposes.

(b) The funds from the proceeds of the Year 2000 City of Coos Bay - State of Oregon Jurisdictional Exchange shall be deposited in an interest bearing account and the income used for the purposes set forth herein. Should any income remain unexpended at the end of any fiscal year, such income may, at the discretion of the City Council, be added to and become part of, the principal of the trust, but in all cases shall only be used for the purposes for which this Trust is established. The City Council may, in its discretion and from time to time, add other funds to the principal of the trust.

(c) The income from, and the principal of, the trust may be pledged to repay revenue bonds or warrants issued to undertake projects for which the Trust is established, provided the question of the issuing of any such revenue bonds or warrants shall be first submitted to a vote of the people.

[Section 9.14 added by election held November 7, 2000]