



CITY OF MYRTLE CREEK

City Charter

1993

(with 2005 amendment)

**City of Myrtle Creek
City Charter
1993
(Amended 2005)**

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MYRTLE CREEK CITY CHARTER

PREAMBLE

We, the people of Myrtle Creek, 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 repeal 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 1993 Myrtle Creek Charter.

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

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 the State of Oregon 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 Powers. 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.

Chapter III

FORM OF GOVERNMENT

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.

Section 7. Council. The Council consists of a mayor and five Councilors nominated and elected from the City at large.

In case of one or more vacancies in the Council, the Council shall consist of those members whose offices are not vacant.

Section 8. Councilors. The five Councilor positions shall be classified into positions which shall be designated as Position 1, Position 2, Position 3, Position 4 and Position 5. At the first regular Council meeting of the new year immediately following the adoption of this Charter, each of the five Councilors elected or appointed before the adoption of this Charter, or elected at the time of adoption of this Charter, shall determine by lot their position number, except that the three Councilors elected at the time of adoption of this Charter shall by such method be assigned to fill Position 1, Position 3, and Position 5. The two remaining Councilors shall by the same method be assigned to fill Position 2 and Position 4. The term of office of Councilors so chosen to fill Position 2 and Position 4 shall end on December 31, 1994. The term of office of the Councilors so chosen to fill Position 1, Position 3, and Position 5 shall end on December 31, 1996.

At the general election occurring in 1994 and every fourth year thereafter, Councilors for Position 2 and Position 4 shall be elected. At the general election occurring in 1996 and every fourth year thereafter, Position 1, Position 3, and Position 5 shall be elected.

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 was elected or appointed before adoption of the Charter. At the general election occurring in 1994 and every fourth year thereafter, a mayor shall be elected for a term of four years.

Section 10. Council President. At the first regular Council meeting of the new year immediately following the adoption of this Charter, and at the first regular meeting of each new year thereafter, the Council shall elect a president from its Councilors.

Section 11. Terms of Office. The term of office of an elective officer who is elected at a general election begins at the first Council meeting of the new year immediately following the election and continues until the successor to the office assumes the office.

Section 12. Appointive Offices. A majority of the Council shall appoint and may remove a City administrator. A majority of the Council may:

- (1) Create, abolish, and combine additional appointive City offices and,
- (2) Except as the majority prescribes otherwise, fill such offices by appointment and vacate them by removal.

Section 13. Reimbursement. The Council shall prescribe a plan for reimbursing City personnel, including employees, and elected and appointed personnel, for expenses that they incur in serving the City. No elected personnel, however, may receive compensation for serving in that capacity.

Section 14. Qualifications.

- (1) An elective City officer shall be a qualified elector under the state constitution and shall have resided in the City during the 12 months immediately before being elected or appointed to the office. In this subsection "City" means an area inside the City limits at the time of the election or appointment.
- (2) No person may be a candidate at a single election for more than one elective City office.
- (3) An elective officer may be employed in 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.
- (4) Except as subsection (3) of this section provides to the contrary, the Council is the final judge of the election and qualifications of its members.
- (5) The qualifications of appointive officers of the City are whatever the Council prescribes or authorizes, except as this Charter provides to the contrary regarding the City administrator's qualifications.

Chapter IV

COUNCIL

Section 15. Meetings. The Council shall meet in the City regularly at least once a month at a time and place designated by Council's rules, and may meet at other times in accordance with the rules.

Section 16. Quorum. A majority of the Council constitutes a quorum for its business, but a smaller number of the Council may meet and compel attendance of absent Councilors as prescribed by Council rules.

Section 17. Record of Proceedings. A record of Council proceedings shall be kept and authenticated in a manner prescribed by the Council.

Section 18. Rules. The Council shall, by ordinance, prescribe rules to govern its meetings and proceedings.

Section 19. Mayor's Functions at Council Meetings.

(1) When present at Council meetings the mayor shall:

- (a) Preside over deliberations of the Council,
- (b) Preserve order,
- (c) Enforce Council rules, and
- (d) Determine the order of business under the rules.

(2) Notwithstanding subsection (1) of this section, the mayor may temporarily cease to chair a Council meeting and delegate the functions described in subsection (1) to another Council member.

(3) The mayor shall have no vote on all questions before the Council except in the event of a tie.

- (4) The Council president shall function as mayor when the mayor is:
- (a) absent from a Council meeting, or
 - (b) temporarily unable to function as mayor.

Section 20. Vote Required. The express concurrence of a majority of the Council members present and constituting a quorum is necessary to decide affirmatively a question before the Council.

Chapter V

POWERS AND DUTIES OF OFFICERS

Section 21. Mayor. The mayor shall appoint:

- (1) Members of committees established by Council rules, and
- (2) Other persons required by the Council to be so appointed.

Section 22. Municipal Court & Judge.

- (1) If the Council creates the office of municipal judge and fills it by appointment, the appointee shall hold, within the City at a place and times the judge or Council specifies, a court known as the Municipal Court for the City of Myrtle Creek, Douglas County, Oregon.
- (2) Except as this Charter or City ordinance prescribes to the contrary, proceedings of the court shall conform to general laws of this State governing justices of the peace and justice courts.
- (3) All areas within the City and, to the extent provided by state law, areas outside the City are within the territorial jurisdiction of the court.
- (4) The municipal court has original jurisdiction over every offense that an ordinance of the City makes punishable. The court may enforce forfeitures and other penalties that such ordinances prescribe.

- (5) The municipal judge may:
- (a) Render judgments and, for enforcing them, impose sanctions on persons and property within the court's territorial jurisdiction;
 - (b) Order the arrest of anyone accused of an offense against the City;
 - (c) Commit to jail or admit to bail anyone accused of such an offense;
 - (d) Issue and compel obedience to subpoenas;
 - (e) Compel witnesses to appear and testify and jurors to serve in the trial of matters before the court;
 - (f) Penalize contempt of court;
 - (g) Issue process necessary to effectuate judgments and orders of the court;
 - (h) Issue search warrants; and
 - (i) Perform other judicial and quasi-judicial functions prescribed by ordinance.
- (6) The Council may authorize the municipal judge to appoint municipal judges pro tem for terms of office set by the judge or the Council.
- (7) Notwithstanding this section, the Council may transfer some or all of the functions of the municipal court to an appropriate state court.

Section 23. City Administrator.

- (1) The City administrator is the administrative head of the City government.

- (2) A majority of the Council shall appoint and may remove the City administrator. The appointment shall be without regard to political considerations and solely on the basis of executive and administrative qualifications.
- (3) The administrator need not reside in the City or the state when appointed, but shall within six months become, and during his or her tenure of office remain, a resident of the City.
- (4) Upon accepting the appointment, the administrator and the Council shall enter into a written contract which prescribes the respective terms, conditions and obligations of the administrator and the City with respect to the administrator's tenure of office, except to the extent that the terms of this Charter provide to the contrary. Upon mutual acceptance of the written contract, the administrator shall furnish the City a bond in an amount and with a surety approved by the Council. The City shall pay the bond premium.
- (5) The administrator shall be appointed for a definite or indefinite term and may be removed by the Council at its pleasure. Within six consecutive months after a vacancy occurs in the office, Council shall fill the vacancy by appointment.
- (6) The administrator 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) Generally supervise and control all employees of the City in accordance with the personnel rules prescribed by Section 35 of this Charter;
- (f) Organize and reorganize the departmental structure of City government;
- (g) Prepare and transmit to the Council an annual City budget;
- (h) Make all purchases;
- (i) Supervise City contracts;
- (j) Supervise operation of all City-owned public utilities and property;
and
- (k) Perform other duties as the Council prescribes consistent with this Charter.

(7) The administrator 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 administrator does not appoint.

(8) The administrator and other personnel whom the Council designates may sit with the Council but may not vote on questions before it. The administrator may take part in all Council discussions.

- (9) When the administrator is absent from the City or disabled from acting as administrator, or when the office of administrator becomes vacant, the mayor, or in his absence the Council president, shall act as administrator pro tem, or the Council may upon its own motion appoint an administrator pro tem, except that the administrator pro tem may appoint and remove personnel only with the approval of the Council. No person may be administrator 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 administrator or a candidate for the office of administrator 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 administrator anything pertinent to City affairs.

Chapter VI

ELECTIONS

Section 24. State Law. Except as this Charter or a City ordinance prescribes to the contrary, a City election shall conform to state law applicable to the election.

Section 25. Oath. Before assuming City office, an officer shall take an oath or shall affirm that he or she will faithfully perform the duties of the office and support the constitution and laws of the United States and of the State of Oregon.

Section 26. Nominations. A person may be nominated in a manner prescribed by general ordinance to run for an elective office.

Section 27. Vacancies: Occurrence. The office of an elective officer becomes vacant:

- (1) Upon the incumbent's:
 - (a) Death,
 - (b) Adjudicated incompetence, or
 - (c) Recall from the office; or

(2) Upon declaration by the Council of the vacancy in case of the incumbent's:

(a) Failure, following election or appointment to the office, to qualify for the office within ten days after the time for his or her term of office to begin

(b) Absence from the City for 30 days without first giving notice to the Council of the incumbent's intentions,

(c) Absence from all meetings of the Council within a 60 day period without the express consent of the Council,

(d) Ceasing to reside in the City,

(e) Ceasing to be a qualified elector under state law,

(f) Conviction of a public offense punishable by loss of liberty, or

(g) Resignation from the office.

Section 28. Vacancies: Filling. A vacancy in an elective office shall be filled by appointment by a majority of the remaining Council within 60 days of the office becoming vacant. A vacancy in the mayor's office shall be filled by appointment from among the remaining Councilors. The appointee's term of office runs from the time of his or her qualifying for the office after the appointment and until expiration of the term of the predecessor, who has left the office vacant. During a Council member's disability to serve on the Council or during a member's absence from the City, a majority of the other Council members may by appointment fill the vacancy pro tem.

Chapter VII

ORDINANCES

Section 29. Ordaining Clause. The ordaining clause of an ordinance shall be "The City of Myrtle Creek ordains as follows:".

Section 30. Adoption by Council.

(1) Except as subsection (2) of this section allows adoption at a single meeting and subsection (3) of this section allows reading by title only, an ordinance shall be fully and distinctly read in open Council meeting on two different days before being adopted by the Council.

(2) Except as subsection (3) of this section allows reading by title only, the Council may adopt an ordinance at a single meeting when an emergency is declared by the express unanimous vote of all Council members present, provided the ordinance is read first in full and then by title. An ordinance adopted to meet an emergency shall include a declaration stating that the immediate enactment of the ordinance is necessary to preserve the health, safety and general welfare of the City of Myrtle Creek.

(3) A reading of an ordinance may be by title only if:

(a) No Council member or other person present at the reading requests that the ordinance be read in full, and

(b) At least three days before the reading:

(i) A copy of the ordinance is provided to each Council member,

(ii) Copies of the ordinance are available for public inspection in the office of the custodian of City records, and

(iii) Notice of their availability is given by written notice posted at the City Hall.

(4) 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.

(5) Upon the adoption of an ordinance, the ayes and nays of the Council members shall be entered in the record of Council proceedings.

(6) Within three days of adoption of an ordinance, the mayor shall sign it and the custodian of City records shall endorse it with its date of adoption and endorser's name and title of office.

Section 31. Effective Date. A non-emergency ordinance takes effect on the thirtieth day after its adoption or on a later day the ordinance prescribes.

An ordinance adopted to meet an emergency may take effect as soon as adopted.

Chapter VIII

PUBLIC IMPROVEMENTS

Section 32. Procedure.

- (1) 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 law. Proposed action on a public improvement that is not declared by two-thirds of the Council present to be needed at once because of an emergency shall be suspended for six months upon remonstrance by owners of a majority of the property to be specially assessed for the improvement. A second such remonstrance suspends the action only with the consent of the Council.
- (2) In this section "owner" means the record holder of legal title or, as to land being purchased under a land sale contract that is recorded or verified in writing by the record holder of legal title, the purchaser.

Section 33. 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.

Chapter IX

MISCELLANEOUS PROVISIONS

Section 34. 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 35. Compensation and Merit System. The Council shall prescribe a schedule of salaries and compensation for employees. Subject to all collective bargaining agreements between the City and one or more groups of its employees, the Council shall prescribe rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of City employees, all of which shall be based on merit and fitness.

Section 36. Political Rights. By ordinance the Council may affirm the rights of City personnel to participate in political activities and may limit those activities to the extent necessary for orderly and effective

operation of the City government, except to the extent that those rights are protected by statutory and constitutional law.

Section 37. 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 38. Repeal. All Charter provisions adopted before this Charter takes effect are hereby repealed.

Section 39. 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 40. Time of Effect. This Charter takes effect January 1, 1993.

1992 CHARTER REVIEW COMMITTEE MEMBERS

Anita Winetrout, Chairman

Robert M Cotterell, Mayor

Bill Leming

Ron March, Councilor

Frank Tyner

Jeredith Bartley, Councilor

Jean Norton

Roy Brogden, Councilor

Sharon Scherer

Randy Leming, Councilor

Ken Brouillard

Ken McCoy, Councilor

1992 STAFF

Leroy Blodgett, City Administrator

Charity Hays, City Recorder

Ronald Schofield, City Planner

Dave Oelrich, Police Chief

The Charter Review Committee recommended, to the voters of Myrtle Creek, amendments to the City's 1953 Charter. Those amendments were approved by the voters on November 3, 1992, by a margin of 856 to 328. The amendments are now incorporated into this Charter which became effective on January 1, 1993.