

CHARTER

To provide for the government of the City of Adair Village, Benton County, Oregon.

Be it enacted by the people of the City of Adair Village, Benton County, Oregon:

CHAPTER I

NAME AND BOUNDARIES

Section 1. TITLE OF ENACTMENT. This enactment may be referred to as the Adair Village Charter of 1999.

Section 2. NAME OF CITY. The municipality of Adair Village, Benton County, Oregon, shall continue to be a municipal corporation with the name of City of Adair Village.

Section 3. REVISION CLAUSE. The sections in the City Charter for the City of Adair Village, Oregon have been revised as hereinafter stated.

Section 4. 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 his or her office at least two copies of this Charter in each of which he or she 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 recorder.

Section 5. EXISTING ORDINANCES CONTINUE. All ordinances of the City not in conflict with this charter or previous charters, and presently in force shall remain in effect until amended or repealed.

CHAPTER II

POWERS

Section 6. POWER OF THE CITY. The city shall have all the rights, powers, privileges, and immunities which the constitution, statutes, and common laws of the United States and of this state, expressly or by implication grant or allow municipalities, including those rights, powers, privileges, and immunities which a city can exercise upon specifically accepting them or upon being granted the power to exercise them by the people of the city or the legislature of this state, as fully as though this Charter expressly stated each of those rights, powers, privileges, and immunities, and as though each of them had been specifically accepted by the City or granted to it by the people of the city or by the legislature of the state.

Section 6.1. PROPERTY. The City shall have the power and is authorized to purchase, receive and hold property, both real and personal, beyond its limits, for the erection, modification, operation and maintenance of waterworks and sewage treatment facilities, for the supply of water and sewer services to the City and its inhabitants; and for the sale of water and sewer services to users outside the City of Adair Village, and for any other lawful purpose. . .

Section 6.2. WATER SYSTEM. The City of Adair Village, Oregon, shall be authorized and empowered to purchase, acquire, appropriate or condemn, either within or without the corporate limits of said City, any real or personal property, water right, riparian right, water course, right of way, reservoir, reservoir site, dam, waterworks, pipelines, wells, pumps, machinery and equipment used or useful in the supplying of water and waste water services to the City of Adair Village, and of other users of water or waste water services purchased from the City of Adair Village; buildings, structures, filters, and filter beds; and to buy, build, construct, own and operate any waterworks system or treating plant, wells, reservoir, building or structure useful or necessary in the matter of acquiring and operating a completed water system or waste water treatment facility for the purpose of supplying the residents, inhabitants and industries of the City of Adair Village and others with water or waste water services for municipal, domestic, manufacturing, power, irrigation and other lawful uses.

Section 7. 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. All powers are continuing unless a grant of power expressly indicates to the contrary.

CHAPTER III

FORM OF GOVERNMENT

Section 8. WHERE POWERS VESTED. Except as this Charter provides otherwise, and as the Oregon Constitution reserves municipal legislative power to the voters of the City of Adair Village, all powers of the City shall be vested in the council.

Section 9. COUNCIL. The Council shall be composed of a mayor and four council persons. The mayor shall be elected from the City at large. The Councilors shall be elected one (1) from each ward. The City shall be divided into four(4) wards bounded and designated by ordinance. The territory comprising each ward shall be contiguous. In the event no citizens run for election, or are willing to serve in any particular ward, a councilor shall be appointed by the sitting Adair Village City Council to represent that ward for the remainder of any term.

Section 10. COUNCIL PERSONS. The term of office of each council person in office when this Charter is adopted shall continue until the expiration of his or her term as presently designated under Oregon Revised Statutes 221.010 to 221.210. At each subsequent biennial general election, the voters of the City shall elect council persons to fill positions which will be vacated the following January. Each council term is four years.

Section 11. MAYOR. The term of office of the mayor in office when this charter is adopted continues until the beginning of the first odd-numbered year after that time. At each subsequent general election, a mayor shall be elected to a two-year term.

Section 12. OTHER OFFICERS. Additional officers of the City shall be a City Administrator who shall also hold the position of 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 at least two council persons. The council may combine any two or more appointive City officers. The council may designate any appointive officer to supervise any other appointive officer.

Section 13. SALARIES. The compensation for the services of each City officer and employee shall be the amount fixed by the council.

Section 14. QUALIFICATIONS OF OFFICERS. No person shall be eligible for an elective office of the City unless at the time of his or her election he or she is a qualified elector within the meaning of the state constitution, is a resident at the time of his or her election and has resided in the City during the 365 days immediately preceding the election. No person shall hold an elective office of the City who has not attained the age of eighteen years at the time his or her term of office begins. The council shall be the final judge of the qualifications and election of its own members; subject, however, to review by a court of competent jurisdiction.

CHAPTER IV

COUNCIL

Section 15. 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 own members and proceedings. The mayor upon his or her own motion may, or at the request of two members of the council, 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 24 nor later than 48 hours after the notice is given. Special meetings of the council may also be held at any time by the common consent of a majority of members of the council.

Section 16. RECORD OF PROCEEDINGS. The council shall cause a record of its proceedings to be kept.

Section 17. 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 18. MAYOR'S FUNCTION AT COUNCIL MEETINGS. The mayor shall be chairman of the council, shall preside over its deliberations and shall have a vote on all questions before it. He or she 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 19. MAYOR PRO TEMPORE 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 mayor pro tempore from its membership. In the mayor's absence from a council meeting, the mayor pro tempore shall preside over it. Whenever the mayor is unable to perform the function of his or her office, the mayor pro tempore shall act as mayor.

Section 20. 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.

Section 21. QUORUM. A majority of the members of the City Council shall constitute a quorum for conducting its business, but a smaller number may meet at a noticed meeting to discuss city business without taking final action.

CHAPTER V

POWER AND DUTIES OF OFFICERS

Section 22. MAYOR. The mayor shall appoint the committees provided by the rules of the council. He or she shall sign all records of proceedings approved by the council. The mayor shall have no veto power and shall sign all ordinances passed by the council within three days after their passage. After the council approves the bond of a city officer or a bond for a license, contract, or proposal, the mayor shall endorse the document.

Section 23. CITY ADMINISTRATOR. The City Administrator shall also act in the official capacity of City Recorder and shall serve ex officio as clerk of the council, attend all its meetings unless excused therefrom by the Mayor and/or Mayor pro tem or at least two council persons, keep accurate record of its proceedings, and sign all orders of the treasury. In the City Administrator's absence from a council meeting, the Mayor shall appoint a clerk of the council pro tempore who, while acting in that capacity, shall have all the authority and duties of the City Administrator. The City Administrator is appointed by and serves at the will of the City Council.

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 Administrator, pursuant to directions from the council, shall give at least thirty 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. QUALIFICATIONS OF ELECTORS. No person shall vote at any City election unless he or she is a qualified elector of the state of Oregon and a resident of the City for at least thirty days next preceding the election.

Section 27. SPECIAL ELECTIONS. The council shall provide by written resolution the time, manner and means for holding any special election. The City Administrator shall give at least ten days' notice of each special election in the manner provided by the action of the council ordering an election.

Section 28. 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 29. 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 recorder on or before noon of the day following, and not later than ten 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 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 recorder shall make and sign a certificate of election of each person elected and deliver the certificate to him or her 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 30. TIE VOTES. In the event of a tie vote for candidates for an elective office, a successful candidate shall be determined pursuant to the procedure set out in state law.

Section 31. COMMENCEMENT OF TERMS OF OFFICE. The term of office of a person elected at a regular city election shall commence at the first council meeting of the calendar year immediately following the election.

Section 32. OATH OF OFFICE. Before entering upon the duties of his or her office, each officer shall take an oath or shall affirm that he or she will support the Constitutions and laws of the United States and of Oregon and that he or she will faithfully perform the duties of his or her office.

Section 33. NOMINATIONS. A registered voter who has resided in the City during the 365 days immediately preceding an election may be nominated for an elective City office to be filled at the election. The nomination shall be by petition that specifies the office sought and shall be in a form prescribed by the council. The petition shall be signed by not less than twenty-five registered voters who reside within the city limits of the City of Adair Village. 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 or her presence and is the genuine signature of the person whose name supports to be. Opposite each signature shall be stated the signer's place of residence, identified by its street number or other sufficient designation. All nomination papers constituting a petition shall be assembled and filed with the recorder as one instrument between August 1 and the close of the business day on the third Friday of August in the year of the election for the position which is the subject of the nominating petition. The recorder 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 registered voters, the recorder 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 nomination petitions. The recorder shall notify an eligible person of his or her written acceptance of nomination in such form as the council may require, within five days of the notification of nomination. The petition of nomination for a successful candidate at election shall be preserved in the office of the recorder until the term of office for which the candidate is elected expires.

CHAPTER VII

VACANCIES IN OFFICE

Section 34. WHAT CREATES A VACANCY. An office shall be deemed vacant upon the incumbent' s death; adjudicated incompetence; conviction of a felony or any crime involving moral turpitude, other offense pertaining to his or her office, or unlawful destruction of public records; resignation; recall from office; or ceasing to possess the qualifications for office; ceasing to reside within the City of Adair Village; upon failure of the person elected or appointed to the office to qualify therefore within ten days after the time for his or her term of office to commence; or in the case of the mayor, council person. or member of the Planning Commission, upon his or her absence from the City for thirty days without the consent of the council or upon his or her absence from three consecutive council meetings including regular, special and executive meetings as defined in Oregon Revised Statutes, Chapter 192, without like consent, and upon a declaration by the council of the vacancy.

Section 35. FILLING OF VACANCIES. Vacant elective offices in the City shall be filled by appointment. A majority vote of the council shall be required to validate the appointment. The appointee's term of office shall begin immediately upon his or her appointment. When a vacancy of the City Council is filled by appointment made before the first day of August of a given year, the person appointed shall serve until the first City Council meeting of the calendar year following the next general election after such appointment. When a vacancy on the City Council is filled by appointment made after the first day of August of a given year, the person appointed shall complete the term of office of his or her predecessor provided, however, that the term of the person so appointed shall not extend past the first City Council meeting of the year following the second general election held after the date of such appointment.

CHAPTER VIII

ORDINANCE

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Section 36. ENACTING CLAUSE. The enacting clause of all ordinances hereafter enacted shall be, "The City of Adair Village ordains as follows:"

Section 37. MODE OF ENACTMENT. (1) Except as the second and third paragraphs of this section provide to the contrary, every ordinance of the council (including land use matters) 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 unanimous 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 Recorder no 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 offices and by advertisement in a newspaper of general circulation 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 a 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 City Administrator shall sign it with the date of its passage and his or her name and title of office, and within three days thereafter the mayor shall sign it with the date of his or her signature, his or her name and the title of his or her office.

Section 38. 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 39. 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 use to which it shall be devoted.

Section 40. 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 including ORS Chapter 279, as amended. 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 "owner".

Section 41. 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 and supplemented as necessary by state law.

CHAPTER X

WATER TREATMENT PLANT IMPROVEMENT REVENUE BONDS WASTEWATER SYSTEM IMPROVEMENT REVENUE BONDS

Section 42. REVENUE BONDS AUTHORIZED. The City of Adair Village, Oregon, is authorized to issue revenue bonds in the maximum amount allotted by law to finance improvements to the water treatment plant owned by the city. The City of Adair Village, Oregon, is authorized to issue revenue bonds in the maximum amount allotted by law to finance improvements to the waste water system treatment plant owned by the city. Bond proceeds may be expanded to (1) provide improvements to the water system required for use of the system by the City and its inhabitants, and for improvements desirable in order to provide water for sale to entities and individuals outside the City of Adair Village; and (2) provide improvements to the waste water system required for use of the system by the City and its inhabitants, and for improvements desirable in order to upgrade or expand system capacity to provide waste water service for units outside the City of Adair Village.

Section 43. BOND TERMS AND SALE PROCEDURE: The bonds may be term bonds, or may mature serially. The City of Adair Village is authorized to determine the provisions upon which the bonds shall be issued, including, but not limited to, the period of time over which the bonds shall mature, and the terms under which the bonds may be redeemed. The bonds may be sold at public or private sale, in the manner determined by the City Council.

Section 44. AGREEMENTS TO SELL WATER; TREAT WASTE WATER AND PLEDGES OF REVENUES. The City of Adair Village is authorized to enter into agreements with public and private entities and individuals for the sale of water produced by the treatment plant owned by the City and/or for the treatment of waste water. The City is authorized to pledge all or any portion of the revenues from the operation of the subject treatment plant, including associated funds to be received from other entities or individuals, for the payment of its revenue bonds.

Section 45. BOND NOT AN OBLIGATION UPON THE TAXING POWER OF THE CITY. The bonds herein authorized shall be payable solely from the revenues of the water treatment plant and/or the waste water treatment plant. The bonds shall not be general obligations of the City of Adair Village, and no tax shall be levied to pay either principal or interest on these revenue bonds.

CHAPTER XI

MISCELLANEOUS PROVISIONS

Section 46. DEBT LIMIT. Except by consent of the voters, the City's voluntary floating indebtedness shall not exceed \$7,500, nor its bonded indebtedness at any one time exceed the limit provided by Oregon Revised Statutes for a city having a population the size of the City of Adair Village according to the official census last taken. For the purposes of calculating the limitations, however, the legally authorized debt of the City in existence at the time this Charter takes effect shall be considered. All City officials and employees who create or officially approve any indebtedness in excess of the limitation may be jointly and severally liable for the excess. All City Officials and employees who create or officially approve any indebtedness in excess of the limitation shall be jointly and severally liable for the excess if the conduct of the individual was not in good faith or the individual could not have reasonably believed that the individual's conduct was in the best interests of the City or could not have reasonably believed the actions were opposed to the City's best interests or the individual would have reason to believe the individual's conduct was unlawful.

Section 47. TORTS. In no event shall the City be liable in damages for an injury to person, 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. 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 180 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 or she will claim damages therefor of the City in an amount which he or she specifies.

Section 48. TIME OF EFFECT OF CHARTER. This Charter shall take effect January 1, 2000, and shall supercede that Charter previously in effect on November 22, 1978.